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America's Revolt Against God
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Who's Afraid of the Religious Right?
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James M. Strock

Salamander the Great
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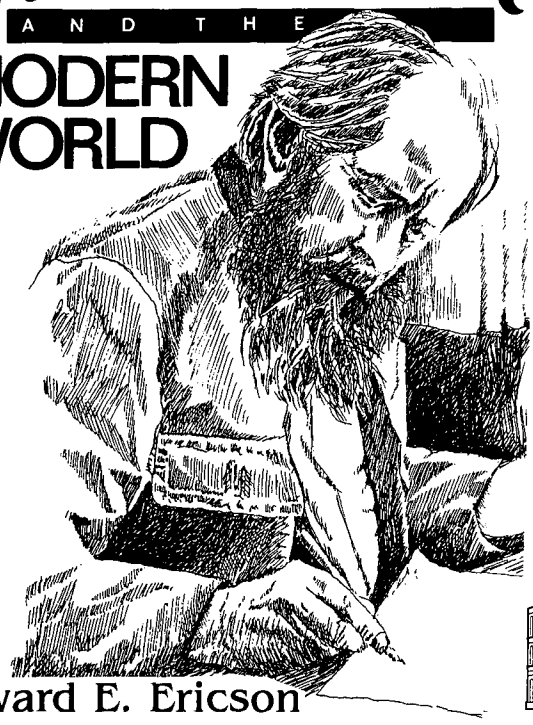
SOLZHENITSYN AND THE MODERN WORLD



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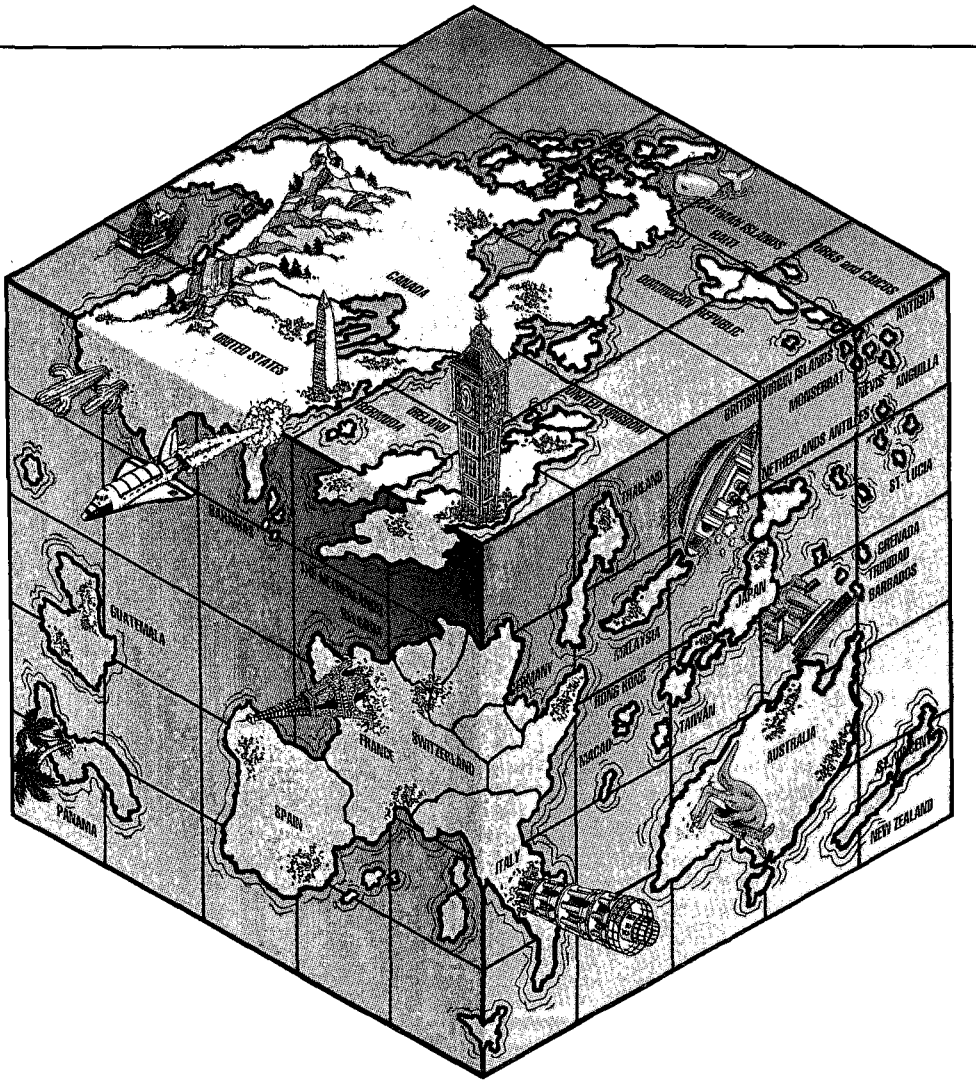

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CLINTON'S FRANKENSTEIN

The Gory Details of the President's Health Plan

ROBERT E. MOFFIT

It is January 2, 2001. Today marks three years since you marched down to the local office of your regional health alliance, enrolled your family in the national health plan, and picked up your health security cards. You thought the Clinton health plan would be the answer to many of your old health care complaints, but frankly, it's been a disappointment.

You thought you'd have numerous choices among health plans through your alliance, but as it turned out, the alliance officials approved only three plans to offer services in your region: one fee-for-service and two health maintenance organizations. Your doctor was not among the private practitioners in the fee-for-service plan, so you joined an HMO because it was a little cheaper.

You wait longer now to see a doctor than you used to, and when he finally arrives, the doctor barely has time to say hello, look you over, and write a prescription before he's off to the next patient. Waiting in the long line for a chest X-ray, you feel cheated—you're just a number on a chart to your HMO. Still, you're young and healthy, and so is your family. The kids are finally used to seeing a different doctor at every check-up, and the problems the pediatrics office had last year with shortages of vaccines seems to have stabilized.

Your elderly parents are not so lucky. The state they live in opted to administer health care directly through a state agency, so there are no alternatives to the type of care they receive. Because their state includes several major cities with huge health care needs that threaten to exceed the health care budget, physicians, services, and the availability of some advanced technology is sometimes scarce. The doctors in their state alliance are young and inexperienced—many of your parents' own doctors gave up on medicine when the health plan was enacted.

Your mother has a heart condition that could be improved by a new drug which has already been approved by the FDA. But because the drug's cost might exceed the allotted budget, its inclusion in the comprehensive benefit package has been delayed by the National Health Board. Your father is in constant pain from arthritis and needs a hip replacement, but the waiting list for this surgery is five months long. Your parents feel they get short-changed compared to younger people, whose health needs are fewer; you know this is probably true.

You never thought, when Bill Clinton started talking about health reform in 1992, that you'd actually end up spending more for *this*.

BROKEN PROMISE

The plan we were promised is not the plan we got. Bill Clinton promised Americans a new national health system based on free market principles, a plan that would streamline the medical system without nationalizing medicine. He continually stressed the principles of security, simplicity, savings, choice, quality, and responsibility.

In fact, the Clinton health plan is anything but simple, and many of the other principles the President embraced have been compromised in development of the plan as well. Moreover, the power of the new federal bureaucracy, particularly the National Health Board, the president has proposed to administer health care will rival any in the history of the republic. The Clinton plan is actually the largest federal power grab made over a sector of the economy in peacetime. The president's plan promises top-down, command-and-control micromanagement of one-seventh of the nation's economy. As *The Economist* of London observed, "Not since Franklin Roosevelt's War Production Board has it been suggested that so large a part of the American economy should suddenly be brought under government control."

Every aspect of the health-care system will be affected by the legislation. The 1,342-page bill, officially called the "Health Security Act," details sweeping government control of the health sector of the economy. To consider just a few of the hundreds of new rules in the bill is enough to illustrate its breathtaking scope. One example: The Health Security Act regulates medical education and the training of physicians, and will set limits on how many medical school students may specialize in a given field in any particular period. Too bad if Junior always wanted to be a brain surgeon; he may be restricted to becoming a general practitioner—or a pediatrician, or an internist—if he wants to practice medicine at all.

Then there's the "I'm Okay, You're Okay" approach to insurance coverage: The regulations stipulate that

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Archive Photos

You thought the Clinton health plan would be the answer to many of your old health care complaints, but frankly, it's a disappointment.

everyone is the same under the Clinton plan, whether he's a tee-totaling jogger or a couch potato who spends his day with a cigarette in one hand and a beer in the other. This is promoting responsibility?

Another provision of the Act creates a government-sponsored national data bank, into which the medical records of every single patient in America must be entered. Maybe this information really will speed communication between physicians and assist in treatment; maybe too, it will prove to be the first step toward nationalized care, and the end of privacy between doctors and patients.

Finally, not content to control only the health insurance industry, the administration is reaching out to grab the auto and worker's compensation markets as well. These types of coverage will be coordinated with the new standard benefits package required by the health plan.

Controlling Mechanisms

Considering how deeply the new health regulations will be thrust into our lives, it is essential that Americans understand the basic structure of the Clinton plan. We must understand how fundamentally different the plan is from the one described by the Clintons' soothing rhetoric. And we must decide if we can tolerate the government's new role as arbitrator in the most intimate decisions of our lives. Today, lobbying for his health proposal, the president continues to stress the principles he vowed would be the foundations of his reforms. But the simplified, consumer-oriented reform that Bill Clinton promised America is in reality a full-scale, federal takeover of the $1 trillion health system. Lodged within the body of the legislation are provisions that will expand federal control over the financing and delivery of U.S. health services, and expand the already-enormous government bureaucracy devoted to health care.

Government control in the Health Security Act is exercised through five key mechanisms:

The **National Health Board** (NHB), which will have general oversight over the entire U.S. health system. Virtually every facet of the health system will be monitored, decided or reviewed by this presidentially appointed board.

Regional Health Alliances, the state-based system of health-insurance cooperatives that will control the availability of health plans, enforce health budgets, enroll employers and employees in the new system, collect pre-

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miums, and generally enforce national insurance rules and regulations. Every American will be forced to obtain health insurance through these alliances, or through similar corporate-sponsored plans if they work for a large company.

A **Standard Benefits Package**, the detailed list of benefits that must be included as standardized government health benefits. The standard package contains not only major medical services, but also coverage for routine care, such as eye and ear exams, and even elective abortion and expensive treatments for substance and alcohol abuse. The standard benefits will be tax free to all Americans; those wishing more coverage than the standard package must pay for it out-of-pocket with after-tax dollars.

Employee Mandates, which require all employers to provide at least the standard package and to pay at least 80 percent of its cost, with special subsidies and provisions depending on the size of the company. Premium costs are limited to 3.5 percent of payroll for small firms and 7.9 percent for larger companies. Firms with over 5,000 employees will still have to provide at least the standard package, but they may opt out of the alliance system and form their own cooperatives.

Government Budgets and Spending Caps. The Clinton plan is riddled with price controls; the central cost control mechanism of the plan is not competition, or even "managed competition," but a rigid set of caps on public and private health insurance spending, plus fee controls for doctors in private practice. Under the plan, the growth in health-care spending is to be forcibly ratcheted down each year until it is in line with the growth of inflation. The target date for this goal is 1999.

THE POWER OF THE NEW FEDERAL BUREAUCRACY THE PRESIDENT HAS PROPOSED TO ADMINISTER HEALTH CARE WILL RIVAL ANY IN THE HISTORY OF THE REPUBLIC.

At first glance, the Clinton plan may not seem unreasonable —it may even look generous and friendly. It is in reviewing the details, which follow below, that the coercive nature of the plan becomes clear.

The Supreme Court of Health

The first of the key elements is the National Health Board (NHB), a new federal agency in the executive branch of government. It is created primarily for the purposes of setting national standards for the new federal system and for overseeing the administration of the health care systems in the states once they are up and running. The NHB will be comprised of seven members, appointed by the president and confirmed by the Senate, each serving a four-year term. The chairman of the NHB will be able to serve a maximum of three terms.

Secretary of Health and Human Services Donna Shalala, during congressional testimony last October, described the National Health Board as a "minor oversight group"—completely miscasting the board's power and scope. In fact, the board will have wide rule-making, standard-setting, and oversight authority, making it, in effect, the "Supreme Court of Health." The National Health Board's responsibilities include:

Oversight of the health-care system established in each state. The board will establish standards and requirements for health insurance plans in the states, approve state implementation of health-care reform, and monitor compliance.

Control over changes in the comprehensive health-care benefit package. The NHB will have almost absolute authority over which benefits will or will not be included in the standard health benefits packages available to Americans. Its decisions are final, unless Congress intervenes. The NHB is also charged with establishing and enforcing compliance with a global budget for national health-care spending. The board will issue regulations for implementing a national health-care budget in the form of price caps on health-insurance premiums. The board will determine per-capita premium targets, or baseline budgets, for every regional alliance in the country, taking into account "regional variations" in price, inflation, and other factors. The board will also certify compliance of the regional alliances with the national health budget.

Establishing and managing a "quality management and improvement system" for health-care delivery. The board is to establish and have ultimate responsibility for a performance-based system of quality management and improvement through a new federal program called the "National Quality Management Program." The day-to-day management of the program is to be run by yet another new federal agency, the "National Quality Management Council," composed of 15 members appointed by the president who are "broadly representative of the population of the United States"—although none of these members may be a doctor, health-care provider, insurance company employee, or in any way connected with the health-care industry. The council is to develop measures of quality—through consultations with doctors, consumers, insurers and state officials, as well as other health experts —in order to standardize the measurement of the performance of the health programs. In other words, the council will attempt to quantify "quality."

Monitor breakthrough drug prices. The National Health Board is not authorized to set drug prices. However, the board is charged with establishing a special committee of its own membership —the "Breakthrough Drug Committee"—which will, in conjunction with another new group, the "Advisory Council on Breakthrough Drugs," monitor breakthrough drug prices to determine whether the initial prices are "reasonable." A breakthrough drug is defined in the language of the bill as a drug "considered to be a significant advance over existing therapies." The bill language, however, does not give either the Council or the NHB explicit powers to roll back a drug price. But the National Health Board is no cheerleading section for high risk investment in new breakthrough drugs.

The power and scope of the National Health Board is

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New Jersey Newsphotos

For many Americans, a basic concern is whether they will be able to keep their own doctors under the Clinton plan.

awesome. Normally, the Office of Management and Budget (OMB) can review regulations proposed by a federal agency and block them if they would be too onerous. But the current language of the Health Security Act suggests that OMB will not have this authority over regulations passed by the National Health Board. In other words, the board will be able to make its decrees without risk of being over-ruled except by Congress. Considering how far-reaching the Clinton plan is, this is an enormous concentration of authority for one government agency. Moreover, it will be extremely difficult to appeal Board decisions once they are made. In fact, all decisions of the NHB over insurance pricing are exempt from either judicial or administrative review.

The bottom line: The NHB will decide exactly what benefits and treatments will be available and at what price. And unless the Congress intervenes, no significant change in any aspect of the American health-care system may be implemented without the approval of the NHB. The Clinton administration has clearly attempted to insulate the NHB from the normal means of review faced by other federal agencies. No wonder some critics are calling it the "Health Politburo."

The Apparatchiks

If the National Health Board is the Politburo of health policy, the individual states are the *apparatchiks*. It will be the legal obligation of each state to make sure that every citizen armed with a "Health Security Card" is enrolled in a health plan. The states will certify health plans, administer subsidies for low-income individuals and small employers, collect data on health-alliance and health-plan performance, and meet federal quality, management, and fiscal solvency requirements. And by January 1, 1998, each state must have established a regional alliance system for the enrollment of employees and employers in approved health-care plans.

The regional alliances are the powerful cooperatives through which health coverage will be purchased and regulated. The alliances may be either public or private entities, a matter left totally to the discretion of state officials. They could simply be state agencies, even an extension of the Governor's office. A board of directors—made up of employers and consumer representatives, but no representatives from any health-related agency or business—will help run the alliance system in each state.

Americans will be required to purchase their health coverage through the regional cooperative to which they are assigned, based on where they live. The boundaries for each region are to be determined by the individual states; each geographic area will have only one regional alliance. The only alternative method of providing health care available to a state other than the alliance system is a single-payer system. That is, a state may choose to control health care directly through a state agency. Under a single-payer system, of course, consumers are denied

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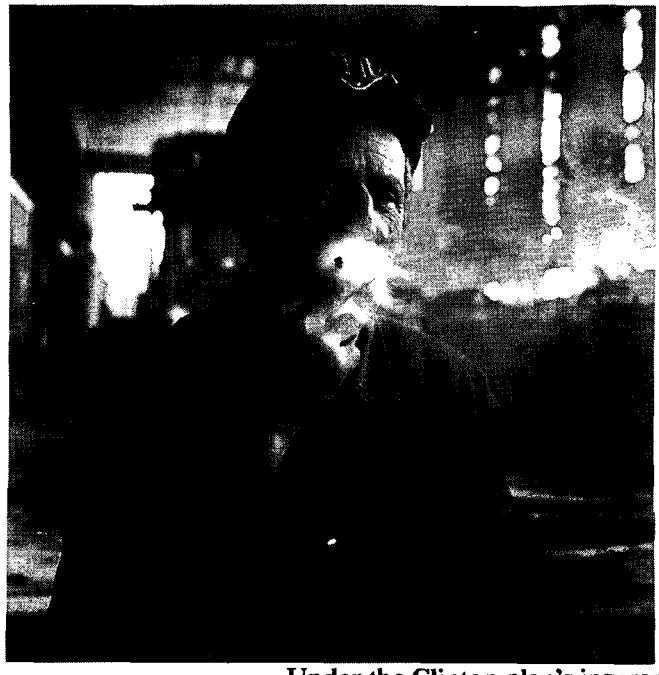

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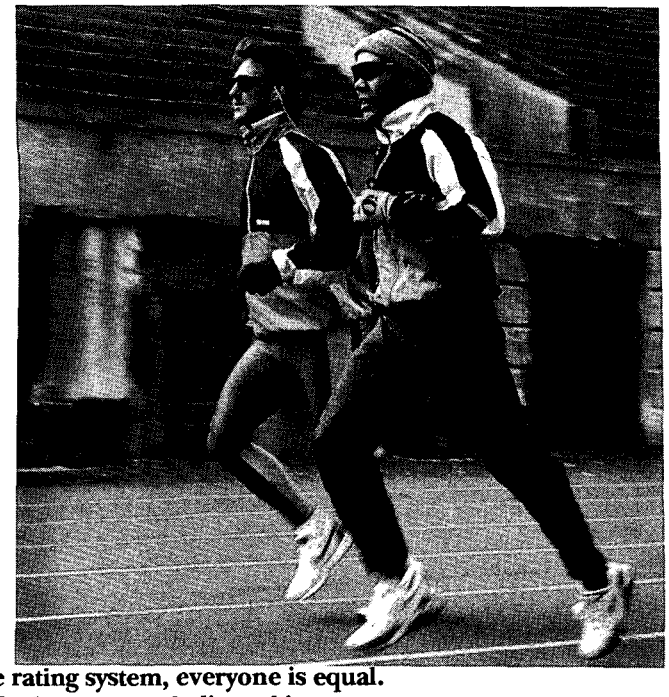

New Jersey Newsphotos

Under the Clinton plan's insurance rating system, everyone is equal. Heavy smokers will be rated exactly the same as dedicated joggers.

the freedom of choice of alternative health coverage plans, because there are no alternatives.

Although the Clinton administration is downplaying the regulatory strength of the regional alliances, they will have impressive powers. They will decide which insurance companies will compete in their regions and which will be excluded, and will negotiate contracts with the insurers and other health-care providers they approve. The alliances will collect all health insurance premiums; they also will strictly monitor and distribute consumer information on the various plans allowed to participate. The alliances will "represent the interests" of both employers and employees in negotiating coverage with the plans in their regions, as well as enforce the strict federal health budgets. The alliances also have the authority to impose separate budgets and fee schedules on doctors. Ultimately, all issues related to health care and health insurance coverage in a particular area will be funneled through the local alliance.

Political Health Care

The basic flaw in the alliance system is clear: Health concerns will become political concerns. The alliance plan will politicize health care at every level while severely limiting competition in the health-care market.

First, since so much discretion in staffing boards of the individual alliances is left up to the states, alliances will inevitably reflect their local state politics. It is likely that conservative governors or state legislatures, not immune to pressure from their supporters, will develop an alliance system that reflects their views; likewise for liberal state governments. The structure of a state's alliance network will become a political bargaining chip in state elections.

But partisan pressure will be just the beginning. Because of the many competing groups that have interest in how the regional boundaries for each alliance are drawn, there is the inevitability of "gerrymandering"—the creative drawing of regional district boundaries—in order to provide better prices to favored constituencies.

Elizabeth McCaughey, a fellow at the Manhattan Institute in New York who has written extensively on the Clinton plan in the *Wall Street Journal*, notes that "The system promises to pit black against white, poor against rich, city against suburb." There will be strong pressures on state officials by groups wanting to be included or excluded from certain alliances. Since each alliance will be required to enforce strict budgets for total health care provided in its region, voters will want areas with higher-than-average incidence of older citizens or retirees, pregnant teens, violent crime, or HIV infection excluded from their alliances, and areas of low potential health cost included. As Ms. McCaughey observes, "Everyone will figure out that you get more health care for your dollar or pay lower premiums in an alliance without inner-city problems. The plan will be an incentive for employers to abandon cities and relocate." In spite of regulations in the health legislation prohibiting any type of discrimination in setting boundaries, there are likely to be intense political battles and many lawsuits over this issue.

And laying aside geography, let's consider the intense lobbying that will result from the alliances' veto power over insurance plans. Technically, an alliance is required to approve any health plan that wants to offer coverage in its region so long as the plan meets all the federal requirements set down by the National Health Board. But what will prevent a weak, but politically well-connected, plan from being retained in the system? What prevents a good plan from being barred from competing in an alliance system because it poses a threat to politically influential, well financed plans? If the Clinton health plan is enacted, such political problems will spill over to the insurance market place, already heavily politicized.

The only exception to enrollment in a regional alliance—or state health program, in those states opting to

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manage health care directly—is for companies with over 5,000 employees nationwide. Such companies may elect to set up their own alliance rather than join a state-based regional alliance. In general, corporate alliances must meet all the same criteria as a regional alliance, but oversight of these corporate groups is delegated to the Department of Labor rather than the Department of Health and Human Services and the National Health Board, and they may initially use different insurance rating systems. The corporate option is discussed further below in the section on employment issues.

I'm OK, You're OK

How will insurance be offered in the alliance system? There will be standard methods, and each state will set up its individual alliance system or systems in accordance with federal rules. But on one issue there is no question: All insurance companies are legally required to offer insurance at the same premium for any individual or group, regardless of health risk. As opposed to the current system, insurance companies are forbidden to take health histories, lifestyles, and other factors that affect health risk into account when offering insurance.

This insurance rating system—known as community rating—is supposed to guarantee that no one will be denied insurance because of his prior medical history; no one will have a "pre-existing condition" that will affect premiums. But in the same way that insurance rates will not discriminate against the sick, they will not be able to reflect better health conditions either.

Imagine what this means. Those who overeat, smoke, drink, abuse drugs, and engage in promiscuous sexual behavior will be rated exactly the same as fervent health nuts. The logical outcome of such a system is that the healthy—who require less medical services—will subsidize those who are choosing riskier lifestyles. Not only does community rating discriminate against the healthy, it actually rewards those who abuse their health. So much for encouraging personal responsibility.

Another problem with community rating is the stress it will cause on alliances with higher-than-average incidences of health problems. Alliances serving inner cities facing, for example, the higher rates of drug abuse, violent assault, and premature birth that are endemic to urban areas will spend their health budgets faster than alliances serving suburban or rural areas. Premiums will eventually have to rise to meet the higher costs for an alliance with these pressures.

Where it has been implemented—for example, in the state of New York—community rating has tended to result in higher average insurance costs. Of course, the Clinton plan solves this problem by simply capping premium costs above a mandated level.

The National Health Board is also directed to set up a national risk-adjustment system to compensate for the inequalities inherent to community rating. But these steps are unlikely to eliminate the central weakness of community-rating systems: If a plan attracts higher-risk individuals and groups, but its premiums cannot be raised, the plan may face huge pay-outs and financial collapse. The only alternative is to bail it out, and more costs to the taxpayers are likely.

Reuters/Betmann

"Health Security Cards" will be issued to every American as we are forced to purchase health insurance through our regional alliances.

Keeping Your Doctor

Although the president has emphasized consumer choice as a main principle in reforming health care, the choice available to families is limited by the government, with few exceptions. Unless you receive health benefits through Medicare, military or veterans benefits, or unless your spouse works for a large company, the law will require you to buy health insurance from the limited choices offered by your alliance. And all families must join a regional alliance, or face penalties.

For many Americans, a basic concern is whether or not they will be able to keep their own doctors under the Clinton plan. Theoretically at least, they will be able to do so. The Health Security Act requires each alliance to offer at least one fee-for-service plan—a plan where families choose the doctors they want and the doctor is reimbursed by the insurance company for his services. But the Clinton plan places harsh regulatory burdens on those who practice fee-for-service medicine, including strict fee schedules and budget limits. Politically, it is easy to clamp down on doctor's fees. The fees doctors will be allowed to charge are unlikely to even meet their overhead, much less allow them any profit.

Many doctors may find it impossible to continue in private practice under these conditions. As *Newsweek* recently reported, "Despite the president's attempts to be reassuring about the changes that will ensue, there is a very good chance that our relationship with our current doctor will be disrupted—the physician may leave medicine altogether or join a health plan we do not choose to

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join." The wealthy will still be able to go outside their plans and pay for a physician's services out-of-pocket, with no tax deductions, but for average Americans such expenses will be prohibitive. Private practice medicine will become a luxury item reserved only for those who can afford it .

One Size Fits All

A particularly mind-numbing section of the Health Security Act is the 56-page section devoted to the standard benefit package that every health plan *must* offer to its subscribers. This benefits package is not just a minimum or catastrophic package. It is a comprehensive benefit package covering a broad range of medical services, and it is this precise package—no more and no less—that health plans are required to offer.

Bill Clinton promised America "Fortune 500 health care," and his standard benefits package certainly gives that impression. It will provide major medical coverage, including an impressive array of hospital and physician services, diagnostic services, preventive care, mental health and substance abuse benefits, family planning and "pregnancy related services"—including abortion—prescription drugs, hospice, home health and rehabilitative services, vision and hearing care, and preventive dental care for children. Among the items specifically excluded from the benefit package: *in vitro* fertilization, sex change operations, and dental implants.

Who could argue against such lavish coverage? Some doctors and patient groups do, claiming that it is still not comprehensive enough. But the problem with the benefits package is not so much what it covers now, but what it might not cover in the future. Once the standard benefits package is finalized, approved by Congress, and executed by the health alliances, it may become very hard to amend.

Other federal experiences in setting benefits suggest that it will be extremely difficult, once the standard benefit package is in place, to add new treatments, procedures, or benefits to it. Medicare, the federal insurance program that cover some 35 million elderly and disabled Americans, provides a good example of the delays that can occur in evaluating new technologies, medical procedures, and medicines. The bureaucratic method used in the Medicare system to evaluate new treatments involves several government agencies and a lengthy review process. Consider medical technologies: In 1991 and 1992, only 18 such evaluations were completed of the many pending. Some assessments have been buried in the bureaucracy for as long as three years. And when considering the procedures for adding new benefits to the package, Americans should also give serious thought to the history of long delays in drug approval by the Food and Drug Administration. Bureaucratic delays by the FDA in approving life-saving drugs actually caused the Bush administration to launch an overhaul of the approval process and expedite approval of drugs to treat deadly diseases such as AIDS, cancer, and cystic fibrosis.

Americans should be alarmed at the prospect of approval procedures like these for the general health care system. Not only might vital new medicines, treatments, and technologies be excluded from the benefits package, or only become available after long delays, but such a system invites special interest pressure. Inevitably, what is or is not included in the benefit package will become the subject of intense political debate and heavy lobbying, with Congress and the National Health Board pitted against medical specialty boards, groups afflicted with particular conditions, and other special interest groups. This will compound the politicization of health care, already established through state-government management of the regional alliances.

Your Health or Your Job

The Clinton plan places the enormous burden of insuring America on American employers. Every employer in America will be required to participate in the financing of health-care reform, whether that employer is a private household employing a nanny or a huge corporation employing hundreds of thousands.

For full-time employees, the employer must pay at least 80 percent of the average premium for the individual or family coverage of the employee. The employee pays no more that 20 percent of the average cost, plus any extra premium for selecting a higher-than-average cost plan.

Employers of under 5,000 workers—small businesses—must place all their employees in a regional alliance; the employees will then have their choice of plans from among those offered by that particular alliance. The federal government has placed a cap on the total contribution made by employers whose employees join a health alliance: The difference between this cap and 80 percent of the average premium will be picked up by the federal government. Counting this subsidy, the employer contribution for firms with 75 or fewer workers, as a percentage of payroll, ranges from 3.5 percent for low-wage employers to 7.9 percent for high-wage employers. No employer in a regional alliance will be obliged to pay more than 7.9 percent of payroll for health insurance. Low-wage workers—such as minimum wage workers or some part-time employees who join regional alliances—will also receive government subsidies to help them pay their share of the insurance premiums. In the Clinton plan, no family with an adjusted income of less than $40,000 will pay more than 3.9 percent of income in premiums.

A company with 5,000 or more workers has two options. First, it may place all its employees in regional alliances, and take advantage of the employer-contribution caps and other subsidies available for those in the regional alliance system. Or the corporation can elect to set up its own corporate alliance. If a business chooses this option, the corporation's managers would organize their employees into a distinct corporate purchasing cooperative, where at least three different types of plans must be offered: a fee-for-service plan and two other plans that are not fee-for-service. Oversight to these corporate alliances is designated to the Secretary of Labor, who may dissolve them if they do not meet budget targets on time.

Although the Clinton plan does provide the corporate option, there are strong disincentives to creating a corporate alliance. Firms choosing this option face a double whammy. First, it is the employer, and not the government, that subsidizes the employee's share of the pre-

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original drawing by Sam Walker for *Policy Review*

Under the Clinton plan, virtually every aspect of American health care will be controlled by the government.

mium for low-wage workers. And second, subsidies are not available to corporate-alliance employees—in other words, the payroll caps on premiums do not apply to corporate-sponsored alliances.

A "Small" Impact?

A simple rule of economics is that any mandate on employers to provide health insurance necessarily adds to the labor costs of firms that do not now offer health insurance, or offer a package less generous than the Clinton benefits package. Higher labor costs translate into higher prices for consumers or reduced compensation for employees, either in wages or benefits. Depending on the size of the firm, the higher labor costs will translate directly into lower wages or job loss.

Since the Clinton plan places such a large additional cost burden on employers, there is virtually no question that some workers will pay for the plan with their jobs. Most economists, and even administration officials, agree that job loss will occur, but disagree on how much. *Time* magazine reported an estimate of 1 million jobs lost. A recent study conducted by Baruch College Professors June and David O'Neill for the Employment Policies Institute estimates the job loss caused by the new employer mandates at 3.1 million. The more conservative estimates from the Employee Benefit Research Institute range from 200,000 to 1.2 million. Even Council of Economic Advisors Chairman Laura Tyson admits that job loss will occur, although she estimates the loss at roughly 600,000 jobs—an impact she considers to be "very small."

How Much is Too Much?

President Clinton has always argued that one of the most important reasons to reform the national health system was to get the price of health care under control. And controlled it will be. The Clinton plan calls for spending reductions starting in 1996 that will align health spending increases with the consumer price index (CPI) by 1999. The National Health Board will set a global budget—the total amount that may be spent on health care in America in a given year—and set a per-capita premium target for every regional alliance in the country. In other words, the federal government will decide how much America can spend on all aspects of health care, in what regions, and set a budget. And this budget will become the law. To help achieve this budget, the plan will constrain the price of health insurance, also by pegging its cost increases to the CPI.

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It will be the job of the National Health Board to enforce the global budget. If a regional alliance in any state exceeds its official budget target, an "assessment" —in other words, a fine—will be imposed on each plan whose premium exceeds the limit for the alliance. Fines will also be imposed on the doctors and other health-care providers in the existing plans.

The wisdom of using the consumer price index as a benchmark for health prices remains in doubt. The CPI is a particularly rigid standard; moreover, the CPI is not a crystal ball that can accurately predict coming health costs. Using the CPI target, according to one federal expert, "would create a tighter spending control system than that of any other nation." Elizabeth McCaughey, writing in the *Wall Street Journal*, is also skeptical: "Mandatory limits on health care spending may wring waste out of the system for the first year or two, but will cause hardship in succeeding years as the 77 million baby boomers age and require more medical care. Limiting spending growth to the CPI, in defiance of this population trend, will have predictable results. In Britain, where health care is rationed, people over 55 are routinely denied kidney dialysis."

GLOBAL BUDGETING FOR HEALTH CARE WILL INEVITABLY LEAD TO RATIONED HEALTH CARE.

What will be the practical effect of the price cap on health insurance? Ms. McCaughey has said it well: "Limiting how much people can choose to pay for insurance limits how much money is in the pot to take care of them when they're sick."

What happens if health-care consumers in a regional alliance spend their budget before the end of the year, even if there are still patients left to treat? The alliance and the plans will cut, slow down, or even stop payments to doctors, hospitals, and other providers—even though these same providers are legally required to treat members of the alliance, regardless of whether payment will be received.

It is entirely possible that, in a particular alliance, an unanticipated surge in spending could result from a nasty flu epidemic, an increase in AIDS in the region, or an outbreak of other types of infectious disease. These are all pressures many regions are facing today. But even such understandable spending increases might be labeled excessive under a pre-set system of rigid spending caps.

Insurance companies will be the organizations with the strongest incentives to hold down costs in such a system. Desperate to avoid fines, insurance companies will do everything possible to restrain what they consider to be "unnecessary" medical practices, procedures, and diagnostic tests. The easiest way for insurance companies to restrain costs is to refuse payment for certain kinds of care. Doctors will be more hesitant to order treatments they are afraid will not be covered. They may end up curtailing some necessary procedures in the process.

The inescapable fact is that in a global budget system, the only ways to hold down spending are to impose price controls and limit services. The global budget will inevitably lead to rationed health care.

THEY'RE NOT BUYING. . .

A final question every American should ask about the Clinton health plan: If it's so great, why are federal workers refusing to sign up for it?

Because today, federal workers are covered by a popular health benefits system known as the Federal Employees Health Benefits Program (FEHBP). FEHBP covers some 10 million federal employees and retirees, including all members of Congress and the executive branch of government. The program allows federal workers to choose from among dozens of health plans; FEHBP relies on the principles of choice and competition to control costs. Competition works: The federal government recently announced that many workers enrolled in the plan would actually see their premiums decrease next year, and many will receive "new or improved preventive care services."

The FEHBP has worked for federal employees for 33 years, and they're not willing to give it up without a fight. So when President Clinton proposed abolishing FEHBP and folding federal workers into a national health plan, pressure from federal unions and certain influential members of Congress forced him to delay their inclusion in a system some of them will actually run. In an extraordinary letter to Hillary Clinton, which highlights the benefits of a delay, Office of Personnel Management Director James King wrote, "I think that it is important the FEHBP population be given the opportunity to see that national health reform is working before they are transitioned into it." It seems that not even those government workers with access to the best information from the White House are willing to take a chance on the Clinton plan. The result: Federal workers are not to be enrolled in the Clinton plan until January 1998, after everyone else.

The health plan that's good enough for you is clearly not good enough for your congressman, your mailman, or any other federal worker—at least not until you try it out first. Think about that the next time the president asks you to sign up and make your "contribution."

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Leave technology to industry

Nobody would argue that technology, and America's ability to create and develop the technologies for tomorrow, will be important to the nation's economic future.

Where there is room for argument, however, is whether business or government should be charged with the task of developing particular technologies. The answer lies in determining who would be better and more efficient at accomplishing the task. And the answer to that is: business.

Yet, there is legislation presently in Congress that would put government in the forefront of determining which technologies to pursue. The cost to taxpayers for such programs over the next few years is estimated at more than $2 billion.

And the rewards could be less than expected. Particularly if you consider the government's past record in making decisions about which technologies to boost.

A few that come to mind are synthetic fuels, breeder reactors and semiconductors.

The Energy Security Act of 1980, for example, created the Synthetic Fuels Corporation (SFC) in order to reduce U.S. dependence on imported crude oil. The idea behind the SFC was to give purchase commitments and price guarantees to companies that developed synthetic fuels—enough to purchase 2 million barrels a day by 1992. At the time, you see, nearly everyone thought the world's supply of crude oil was running out.

Of course, we know now it hasn't, and won't for the foreseeable future. Because a better conservation ethic took hold and the petroleum industry did its job in finding new reserves of crude oil and natural gas, much of which was accomplished by new technologies developed through the private enterprise system.

Even before the Energy Security Act of 1980, Congress, in 1970, authorized the Clinch River Breeder Reactor project—expecting it to solve America's energy problems. Delays, cost overruns and changing demands in power ultimately caused Congress to kill the program in 1983—after wasting $1.5 billion of taxpayers' money. The authors of a Brookings Institution study labeled it "the quintessential example of a technological turkey...."

More recently, we've seen the government fund a research and development consortium called Sematech, which was supposed to help the U.S. semiconductor industry compete against foreign manufacturers. After spending $500 million, Sematech is semi-dormant and being left behind by small, entrepreneurial firms that concentrated on design rather than manufacturing technology. It was simply a matter of those in the industry knowing more about the problem than government bureaucrats. In 1992, largely because of the industry's technological advances, America's worldwide share in the semiconductor market exceeded Japan's for the first time in a decade.

Government's role in enhancing technology should be to encourage research and development across the broad spectrum of technology through tax credits and other incentives to those companies and industries investing in new technology.

In times when money is tight and the nation's electorate calls for reduced spending, Congress should not be cooking up an increase in spending for the purposes of advancing whatever technology may catch its fancy. That's a recipe that could soon begin to smell strongly of pork. Not a very tasty meal when you consider past servings of the same dish.

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Kristol Ball

William Kristol Looks at the Future of the GOP

An Interview by Adam Meyerson

William Bennett once commented on the irony that many of the most effective conservative politicians these days are former academics. "Conservatives who come from universities have learned to cope with ideological hostility," Mr. Bennett said. "It isn't such a big shock to meet a group of hostile reporters or hostile members of Congress after you have been dealing with faculty colleagues."

It is remarkable how many of the GOP's most influential leaders used to be professors. Newt Gingrich, the next leader of Republicans in the House, taught history. Senator Phil Gramm and Representative Dick Armey were economics professors. Mr. Bennett is an erstwhile philosophy teacher.

William Kristol, a former teacher at Harvard's Kennedy School of Government, is universally regarded as one of the most capable and brilliant political strategists in conservatism. Chief of staff to Vice President Dan Quayle, and previously to Mr. Bennett at the Department of Education, Mr. Kristol last year directed the Bradley Project on the 90s. He is now chairman of a new organization, the Project for the Republican Future, whose goals are to challenge the premises and purposes of liberalism, and to serve as a "strategic nerve center for a network of thinkers, activists, and organizations committed to a coherent agenda of conservative reform."

In November 1993, Mr. Kristol talked about Clintonism and its vulnerabilities, and the future of the Republican party in an interview with *Policy Review* editor Adam Meyerson.

Policy Review: **The congressional elections of 1994 will probably be the most important elections in this country since the Reagan landslide of 1980. How many seats in the Senate and House should Republicans aim at picking up? What are the most important defining issues for Republican congressional candidates to run on?**

Kristol: Republicans should aim at picking up a majority in both the House and the Senate. There is no point in setting one's sights any lower. The great opportunity for Republicans will be to run against Clintonism, and to mount a whole-hearted challenge to contemporary liberalism. Running against the Clinton health program will obviously be very important, because it is the grandest and most striking embodiment of contemporary liberalism. But we need to challenge the premises and presumptions of today's liberalism across the board.

This means making the case for limited government, and then explaining as well that limited government is more energetic and more effective government. We have to say there are certain things we expect government to do, such as making the streets safe and national defense. And there are certain areas where government is ineffectual or shouldn't be involved in the first place. We have to show how a conservative agenda in areas such as education and health care will address the problems that people are concerned about—without increasing, and in many cases actually reducing, the scope of government.

***P.R.*: Does George Bush bear primary responsibility for the disappointing performance of GOP congressional candidates in 1992? Or has there been a deeper problem in the party, reflected in the GOP's loss of the Senate in 1986, and the failure of Republicans to win many open House seats during the Reagan presidency? What must Republicans do better in 1994 and 1996 if they are to win control of the Congress?**

Kristol: George Bush has to bear some responsibility for the disappointments of 1992. His departure from Reaganomics was very damaging. But Republicans were hurt as well by the absence of an aggressive conservative reform agenda on a broad range of domestic issues such as health care, crime, and education. This wasn't just George Bush's fault. The party as a whole didn't do as much work as it should have done in some of those areas.

***P.R.*: Many Democrats as well as Republicans are sharply criticizing President Clinton over his performance as commander-in-chief, arguably the most important responsibility of the presidency. Do you think foreign policy will re-emerge as an important election issue in the 1994 congressional races and the 1996 presidential race? If so, how should Republicans best be framing the foreign policy debate?**

Kristol: Ideological and partisan battle lines in foreign

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policy aren't as clear as they used to be, so I'm not sure Republican Senate candidates will be able to run as hawks or doves, as isolationists or interventionists. People in both parties seem to be all over the lot on these issues. But I do think that Clinton's incompetence in foreign policy will hurt the administration's general approval rating, and that this in turn will hurt the Democrats generally in 1994. In 1996, when there's a presidential election, the issue could bite more deeply, and Democrats could be hurt very badly if the world looks dangerous and Clinton still looks so feckless. Foreign policy would then come back as a major voting issue in the presidential race and could spill over into congressional elections.

P.R.: **Let's talk about health care some more. Why have Republicans been so slow in responding to President Clinton's health care plan? Why is it so important for this plan to be defeated? How can Republicans—and conservative Democrats for that matter—turn this issue to electoral advantage?**

Kristol: The health care plan is, as Clinton himself has said, the centerpiece of his presidency and the centerpiece of contemporary liberalism's domestic agenda. It is important that it be defeated not only because it would be bad for health care in this country, but because it could be the key to unraveling Clintonism, and thereby laying the groundwork for a counter-offensive on behalf of the conservative reform agenda. We have the opportunity to turn the health care debate into liberalism's Afghanistan—the over-reaching that exposes liberalism's weaknesses and causes its collapse.

Clinton's health care plan embodies many of the characteristics of contemporary liberalism—the amazing faith in government, the distrust not just of market forces but of normal people making decisions about their lives, the arrogance of taking over 14 percent of the economy and trying to shape it from Washington. The whole corporatist structure of "alliances" and price controls is hostile not only to free markets and to good health care, but to the very character of a free society.

Republicans have been too timid and defensive so far in their reaction to Clinton's plan. The goal over the next several months should not be simply to wound the proposal, to nitpick the numbers or criticize some of the most onerous provisions, but to defeat the Clinton plan root and branch. This is important on the merits. It is also crucial as a matter of political strategy.

Mr. Clinton's health care proposal is a huge political opportunity for Republicans and conservatives. It gives us a chance to delegitimize contemporary liberalism in a way that normal policy debates don't. That is why the organization I am involved with, the Project for the Republican Future, is going to make defeat of the Clinton health care plan one of our very top priorities. We want to use the health care debate as a model for routing contemporary liberalism and advancing an aggressive conservative activist agenda.

P.R.: **Mike Joyce of the Bradley Foundation has been urging conservatives to embrace the "New Citizenship" as a unifying principle for the great political and cultural**

"We have the opportunity to turn health care into liberalism's Afghanistan—the over-reaching that exposes its weaknesses and causes its collapse."

debates of the 1990s. What are some of the most important examples of the "New Citizenship" that are already working well? What are some of the most promising opportunities to get citizens more involved in rebuilding their schools, neighborhoods and communities?

Kristol: Mike coined the term the "new citizenship" to distinguish it from the kind of citizenship encouraged by contemporary liberalism—the idea that citizens should vote every year or two, but otherwise should play virtually no role in governing themselves. Rather, they should be treated as clients or dependents of government. This modern conception of citizenship is in sharp contrast to the expectations of our Founding Fathers for a vigorous, self-governing citizenry.

The heart of the "new citizenship" is that citizens should take charge of their own lives and not be intimidated by the so-called "experts"—the government bureaucrats, social welfare providers, therapists, and their friends in the media, who are trying to radically limit the ability of families and individuals to control their own destiny. School choice is at the center of the new citizenship agenda because education is so important to families, and because there has been such a massive transfer of power from the family to a distant bureaucracy. This is why the educational establishment resists school choice so vehemently. The education establishment may claim to think choice is bad educational policy, but, what they really fear isn't that parental choice will fail; they fear that

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it will succeed. Its success—of which there's already evidence—strikes at the heart of the education establishment's power and its claim to rule.

The new citizenship looks to strengthening civil society against government. Liberals think that being a citizen is voting for your elected official, who in turn should defer to bureaucrats and "experts." We think being a citizen is participating actively in shaping the civil society in which we live.

The fight over the Boy Scouts is indicative: The Left despises and is trying to destroy the Boy Scouts not simply because it dislikes particular provisions in the Boy Scout oath. What the Left really hates is that this is a private civic organization of parents and community leaders who band together to teach and pursue common objectives. Conservatives want to liberate civil society from the therapeutic welfare state, and encourage groups like the Boy Scouts to flourish.

***P.R.:* School choice is a hot-button issue for conservative activists, but, as the California initiative this year shows, it hasn't yet won at the ballot box—or in state legislatures. Is this an idea whose time will come soon? Or are conservatives perhaps putting too much emphasis on politics in pushing for greater access to private education?**

Kristol: The advocates of school choice were outspent by $15 million in California, and it is almost impossible to win in those circumstances. But school choice's time is coming, and we have learned some important lessons from the results in California. The main one is that it is hard to ask citizens to scrap the entire education system they're used to, and put their faith in something that so far is untried.

This is a case where we should pursue radical ends by incremental means. We should make sure that private-sector voucher programs are set up much more widely throughout the country, so that people can see the benefits of vouchers, especially for low-income families and children. We should focus on school choice efforts in specific cities and localities, more than in entire states. And even statewide, we might want to look at targeting the vouchers, at least in the first years, to lower income families who are hurt most by the current system. This will help build support for choice among middle-class families who are worried about an untested new experiment.

It's important to remember that many middle-class parents have worked very hard to buy a house in an area with decent public schools. To these families school choice seems to endanger the financial investments they have made, and the quality of the schools that they have worked so hard to get their kids into. We may think that it is unwise for parents to have these fears, and we may think we have good policy answers to those fears, but those fears are real and they are understandable. It will take an incremental strategy to show those fears are wrong.

If we do pursue incremental steps in school choice, then I think fundamental change will come very rapidly. The first anti-tax initiative lost in California in 1968, I believe, and by 1978 Proposition 13 passed. The parents' revolt against the teachers' unions and the public school monopoly has the potential to be in the 1990s what the tax revolt was in the late 1970s.

***P.R.:* Do you agree with the prevailing wisdom that Republicans lost the "family values" debate of 1992? What sort of mistakes did Republicans make? And what kind of rhetoric on issues such as homosexuality, abortion, and working mothers would enable Republicans to appeal to social conservatives without frightening away other constituencies?**

Kristol: Even elite opinion—including President Clinton—now concedes that Dan Quayle was right in pointing to the breakdown of the family as key to many of America's worst social ills. Barbara Whitehead's important article in *The Atlantic*, called "Dan Quayle Was Right," pulled together the massive empirical evidence of devastation resulting from the collapse of families.

Having said that, though, let me admit that too much of the Republican "family values" debate in 1992 seemed to be simply moralizing about values instead of explaining the human costs of the breakdown of certain value structures. This is the key lesson I learned from 1992. People may agree with you in general about the right and wrong ways to lead one's life, but I think they expect public officials to focus on concrete outcomes. We should have been clearer than we were in pointing out that a society with a lot of illegitimacy will be a society with too much crime, too much poverty, and too little educational achievement.

I don't buy the conventional wisdom that "social issues" are terribly divisive for Republicans, or that we are in danger of being a permanent minority party because of our allegedly intolerant positions on abortion and homosexuality. Indeed, on abortion I believe we can achieve a great deal of unity in opposing Mr. Clinton's radical policies, such as federal taxpayer funding for abortion on demand.

I am pro-life, but I acknowledge that we are unlikely to achieve much of the legislative pro-life agenda in the near future, beyond some limitations such as the denial of taxpayer funding. I do think that the pro-life agenda is very much worth fighting for over the long term. For now, we can seek whatever legal restrictions in abortion are feasible, and we especially need to try to vigorously oppose the left's efforts to totally legitimize abortion on demand and to make it virtually impossible to raise moral objections to abortion in public discourse

Here we can benefit by stressing Mr. Clinton's own statement that he wants to make abortion "safe, legal, and rare." He has, of course, done nothing to make it rare—quite the opposite. But it is striking that he felt compelled to say that. After all, if abortion is simply a right like every other right, like the right to free speech or the right to assembly, then why would he want to make it rare? Surely, President Clinton is acknowledging there that there is something troubling about abortion or at least about the huge number of abortions we have in America. I think we can begin from that acknowledgement by the president and work to educate our fellow Americans in such a way that we lay the groundwork for much more pro-life public policies in the future.

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New Jersey Newsphotos

"What the Left really hates about the Boy Scouts is that this is a private civic organization of parents and community leaders who band together to teach character and pursue common objectives."

P.R.: **Fifteen states have now passed term limits, and the term limits movement has brought into the political process hundreds of thousands of activists looking for reform in Washington and state legislatures. So far the term limits movement seems to have hurt GOP candidates as much—if not more—than Democratic candidates. How can Republicans and conservatives do a better job turning the term limits movement to their own political advantage?**

Kristol: I wish the Republicans were more aggressive in identifying with the term-limits movement, which is a genuinely populist movement. Perhaps the main problem is that Republicans have many incumbents of their own, though not as many as the Democrats, of course. But it is short-sighted to protect these incumbents at the expense of the longer-term good of the party and the country.

Term limits have to be supplemented by other constitutional public policy reforms that attack the pathologies of the welfare state. But term limits are a useful remedy for one of the biggest problems in our government today—the capture of policy-making by an "iron triangle" of special interest groups, bureaucrats, and the congressmen and their staffs who dominate the relevant congressional committees. Term limits strike at the "iron triangle" by striking at the current seniority system and committee system, which are key pillars of interest-group welfare-state politics.

P.R.: **Earlier this year, many commentators referred to the Perot movement as the most important swing vote in America today. Do you agree with this assessment? How can Republicans best appeal to the Perot movement, and especially its activists?**

Kristol: The key to understanding the Perot movement is that it really isn't a Perot movement. It is a reflection of great popular dissatisfaction with business as usual in Washington. Mr. Perot became the vehicle for this dissatisfaction and tapped into it extremely well. But I'm not sure Ross Perot can maintain his position over the next few years as the poster boy of this dissatisfaction.

It is important for Republicans to criticize Mr. Perot when he becomes dangerous for the country, as he was with his opposition to NAFTA. Republicans also have to make sure that Ross Perot isn't seen as the alternative to Bill Clinton, which pushes Republicans off the stage. The best way to appeal to Perot voters is not to imitate Mr. Perot's demagoguery, but to have an aggressive agenda for reform, and not to be what President Bush was perceived to be, a comfortable captive of the status quo.

P.R.: **Who have been the most effective heads of the Republican National Committee in recent years? What do you think should be Haley Barbour's priorities?**

Kristol: Haley Barbour is doing a good job as Republican National Chairman. There are some limitations in the nature of the job that neither he nor his predecessors can overcome, and that is why I think there is room for an

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"Elite opinion—including Bill Clinton—now concedes that Dan Quayle was right: The breakdown of the family is the key to many of America's worst social ills."

organization like the one we have started. Given the shock of losing the White House for the first time in 12 years, I think the RNC did pretty well in opposing Mr. Clinton's tax-and-spend package earlier this year, and is doing a decent job of fighting the health care plan. The RNC is constrained by the need to speak for the broad spectrum of Republicans and therefore can't take quite as sharp a tone as I know Haley would like, and as I think we can take as an independent organization. Bill Brock was an effective chairman because he had the good sense to put the RNC on the side of the supply-side movement in 1978. He saw that the supply-side movement could be key not just to winning in 1980 but to changing the character of the Republican Party and to establishing, at least for a while, a governing majority. I think Haley is modelling himself on Bill Brock, and I hope that he has the chance to achieve as much over the next few years.

***P.R.*: The late 1970s were a period of extraordinary creativity and party-building for the GOP, even though the Democrats had control of the White House and whopping majorities in both Houses of Congress. Are there any other important lessons from that period that should apply to the GOP today?**

Kristol: The story of the supply-side movement is worth studying. There a small group of thinkers, elected officials, publicists and Capitol Hill staff members took a new perspective on economic policy and promoted it not just as a new way of thinking about taxation but as a way of changing the character of the Republican party. Supply-side economics broke us free of some of the traps that kept us in minority status, and turned Republicans into the party of populism and optimism. And Mr. Reagan of course took that message to victory in 1980. We at the Project for the Republican Future hope to do in several areas of policy what the ad hoc group of supply-side activists did in the 1977-1980 period.

Another lesson from that period is that if you beat the incumbent Democratic administration in the right way, you do not just stop their momentum or deal them a setback, you really lay the groundwork for a counteroffensive and for your own governing agenda. Jimmy Carter's energy plan was announced with almost as much hullabaloo as Clinton's health plan. It collapsed partly as a result of real-world events, but also because David Stockman, Ronald Reagan, and a few others really attacked it. Mr. Reagan didn't just challenge the Carter energy plan as too costly or too unwieldy, he challenged it on its premises.

And indeed in 1981, when he became president, Mr. Reagan decontrolled oil and gas—something that was politically unachievable just four or five years earlier before the failure of Jimmy Carter's big government energy plan. So I would say again that beating Clintonism, if done on the right grounds, can lay the groundwork for making progress on a governing agenda in the opposite direction.

***P.R.*: What explains the sudden change in big-city politics—with moderate to conservative Democrats taking over cities such as Philadelphia, Milwaukee, and Cleveland, Republicans winning in Los Angeles and New York, and a conservative Republican winning by a landslide in mostly black and Hispanic Jersey City? Do the gains by Republicans in mayoral elections offer opportunities to build a stronger Republican party in grass-roots urban politics?**

Kristol: We shouldn't overstate what has happened. It is going to take quite a while for the political character of the big cities to change as much as we would like. But we can see these recent local elections as a sign of the fundamental weakness of contemporary liberalism. The failures of the welfare state are nowhere more evident than in the biggest cities, for if any place has been the object of liberal solicitude and experimentation, it has been our biggest cities and especially our inner-city neighborhoods. And it is precisely these places that are suffering most in America.

So, I think there is a real opportunity not simply to win some votes in cities but to illuminate much more clearly just how disastrous contemporary liberalism has become. America is a strong country, and many of our suburbs can shrug off the ravages of contemporary liberalism with some success. But in the big cities, unfortunately, communities and neighborhoods aren't as strong, citizens aren't as wealthy, and families aren't as stable, so the pathologies have a much more virulent effect. The human damage in inner cities is heartbreaking. But it's also a useful wake-up call for the rest of us about the natural effects of contemporary welfare state liberalism going unchecked. ☎

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Revolt Against God

America's Spiritual Despair

William J. Bennett

We gather in a spirit of celebration. But tonight I speak out of a spirit of concern—for this evening my task is to provide an assessment of the social and cultural condition of modern American society. And while many people agree that there is much to be concerned about these days, I don't think that people fully appreciate the depth, or even the nature, of what threatens us—and, therefore, we do not yet have a firm hold on what it will take to better us. We need to have an honest conversation about these issues.

A few months ago I had lunch with a friend of mine, a man who has written for a number of political journals and who now lives in Asia. During our conversation the topic turned to America—specifically, America as seen through the eyes of foreigners.

During our conversation, he told me what he had observed during his travels: that while the world still regards the United States as the leading economic and military power on earth, this same world no longer beholds us with the moral respect it once did. When the rest of the world looks at America, he said, they see no longer a "shining city on a hill." Instead, they see a society in decline, with exploding rates of crime and social pathologies. We all know that foreigners often come here in fear—and once they are here, they travel in fear. It is our shame to realize that they have good reason to fear; a record number of them get killed here.

Today, many who come to America believe they are visiting a degraded society. Yes, America still offers plenty of jobs, enormous opportunity, and unmatched material and physical comforts. But there is a growing sense among many foreigners that when they come here, they are slumming. I have, like many of us, an instinctive aversion to foreigners harshly judging my nation; yet I must concede that much of what they think is true.

"You're Becoming American"

I recently had a conversation with a D.C. cab driver who is doing graduate work at American University. He told me that once he receives his masters degree he is going back to Africa. His reason? His children. He doesn't think they are safe in Washington. He told me that he didn't want them to grow up in a country where young men will paw his daughter and expect her to be an "easy target," and where his son might be a different kind of target—the target of violence from the hands of other young males. "It is more civilized where I come from," said this man from Africa. I urged him to move outside of Washington; things should improve.

But it is not only violence and urban terror that signal decay. We see it in many forms. *Newsweek* columnist Joe Klein recently wrote about Berenice Belizaire, a young Haitian girl who arrived in New York in 1987. When she arrived in America she spoke no English and her family lived in a cramped Brooklyn apartment. Eventually Berenice enrolled at James Madison High School, where she excelled. According to Judith Khan, a math teacher at James Madison, "[The immigrants are] why I love teaching in Brooklyn. They have a drive in them that we no longer seem to have." And far from New York City, in the beautiful Berkshire mountains where I went to school, Philip Kasinitz, an assistant professor of sociology at Williams College, has observed that Americans have become the object of ridicule among immigrant students on campus. "There's an interesting phenomenon. When immigrant kids criticize each other for getting lazy or loose, they say, 'You're becoming American,'" Kasinitz says. "Those who work hardest to keep American culture at bay have the best chance of becoming American success stories."

Last year an article was published in the *Washington Post* which pointed out how students from other countries adapt to the lifestyle of most American teens. Paulina, a Polish high school student studying in the United States, said that when she first came here she was amazed by the way teens spent their time. According to Paulina:

> In Warsaw, we would talk to friends after school, go home and eat with our parents and then do four or five hours of homework. When I first came here, it was like going into a crazy world, but now I am getting used to it. I'm going to Pizza Hut and watching TV and

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doing less work in school. I can tell it is not a good thing to get used to.

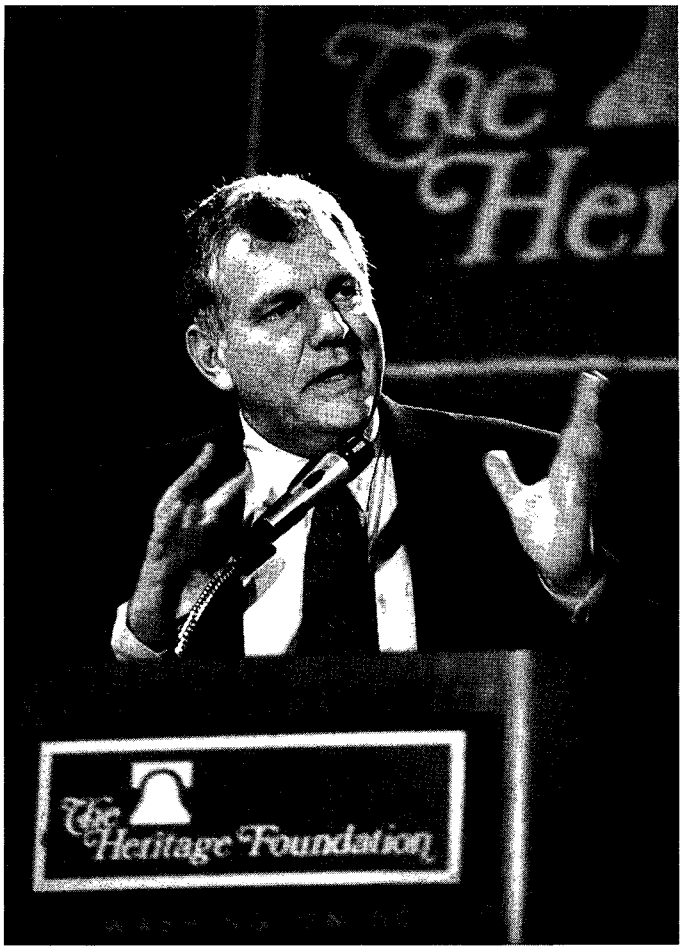
Think long and hard about these words, spoken by a young Polish girl about America: "When I first came here it was like going into a crazy world, but now I am getting used to it." And, "I can tell it is not a good thing to get used to."

Something has gone wrong with us.

Social Regression

This is a conclusion which I come to with great reluctance. During the late 1960s and 1970s, I was one of those who reacted strongly to criticisms of America that swept across university campuses. I believe that many of those criticisms—"Amerika" as an inherently repressive, imperialist, and racist society—were wrong then, and they are wrong now. But intellectual honesty demands that we accept facts that we would sometimes like to wish away. Hard truths are truths nonetheless. And the hard truth is that something has gone wrong with us.

America is not in danger of becoming a third world country; we are too rich, too proud and too strong to allow that to happen. It is not that we live in a society completely devoid of virtue. Many people live well, decently, even honorably. There are families, schools, churches and neighborhoods that work. There are places where virtue is taught and learned. But there is a lot less of this than there ought to be. And we know it. John Updike put it this way: "The fact that... we still live well cannot ease the pain of feeling that we no longer live nobly."



Chas Greer/The Heritage Foundation

"If I am right and the chief problem we face is spiritual impoverishment, then the solution depends, finally, on spiritual renewal." —William J. Bennett

Let me briefly outline some of the empirical evidence that points to cultural decline, evidence that while we live well materially, we don't live nobly. Earlier this year I released, through the auspices of the Heritage Foundation, *The Index of Leading Cultural Indicators*, the most comprehensive statistical portrait available of behavioral trends over the last 30 years. Among the findings: since 1960, the population has increased 41 percent; the Gross Domestic Product has nearly tripled; and total social spending by all levels of government (measured in constant 1990 dollars) has risen from $142.7 billion to $787 billion—more than a five-fold increase.

But during the same thirty-year period, there has been a 560 percent increase in violent crime; more than a 400 percent increase in illegitimate births; a quadrupling in divorces; a tripling of the percentage of children living in single-parent homes; more than a 200 percent increase in the teenage suicide rate; and a drop of 75 points in the average S.A.T. scores of high-school students.

These are not good things to get used to.

Today 30 percent of all births and 68 percent of black births are illegitimate. By the end of the decade, according to the most reliable projections, 40 percent of all American births and 80 percent of minority births will occur out of wedlock.

These are not good things to get used to.

And then there are the results of an on-going teacher survey. Over the years teachers have been asked to identify the top problems in America's schools. In 1940 teachers identified them as talking out of turn; chewing gum; making noise; running in the hall; cutting in line; dress code infractions; and littering. When asked the same question in 1990, teachers identified drug use; alcohol abuse; pregnancy; suicide; rape; robbery; and assault. These are not good things to get used to, either.

Consider, too, where the United States ranks in comparison with the rest of the industrialized world. We are at or near the top in rates of abortions, divorces, and unwed births. We lead the industrialized world in murder, rape and violent crime. And in elementary and secondary education, we are at or near the bottom in achievement scores.

These facts alone are evidence of substantial social regression. But there are other signs of decay, ones that do not so easily lend themselves to quantitative analyses (some of which I have already suggested in my opening anecdotes). What I am talking about is the moral, spiritual and aesthetic character and habits of a society—what the ancient Greeks referred to as its *ethos*. And here, too, we are facing serious problems. For there is a coarseness, a callousness, a cynicism, a banality, and a vulgarity to our time. There are just too many signs of de-civilization—that is, civilization gone rotten. And the worst of it has to do with our children. Apart from the numbers and the

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specific facts, there is the on-going, chronic crime against children: the crime of making them old before their time. We live in a culture which at times seems almost dedicated to the corruption of the young, to assuring the loss of their innocence before their time.

This may sound overly pessimistic or even alarmist, but I think this is the way it is. And my worry is that people are not unsettled enough; I don't think we are angry enough. We have become inured to the cultural rot that is setting in. Like Paulina, we are getting used to it, even though it is not a good thing to get used to. People are experiencing atrocity overload, losing their capacity for shock, disgust, and outrage. A few weeks ago eleven people were murdered in New York City within ten hours—and as far as I can tell, it barely caused a stir.

Two weeks ago a violent criminal, who mugged and almost killed a 72-year old man and was shot by a police officer while fleeing the scene of the crime, was awarded $4.3 million. Virtual silence.

And during last year's Los Angeles riots, Damian Williams and Henry Watson were filmed pulling an innocent man out of a truck, crushing his skull with a brick, and doing a victory dance over his fallen body. Their lawyers then built a successful legal defense on the proposition that people cannot be held accountable for getting caught up in mob violence. ("They just got caught up in the riot," one juror told the *New York Times*. "I guess maybe they were in the wrong place at the wrong time.") When the trial was over and these men were found not guilty on most counts, the sound you heard throughout the land was relief. We are "defining deviancy down," in Senator Moynihan's memorable phrase. And in the process we are losing a once-reliable sense of civic and moral outrage.

Urban Surrender

Listen to this story from former New York City Police Commissioner Raymond Kelly:

> A number of years ago there began to appear, in the windows of automobiles parked on the streets of American cities, signs which read: 'No radio.' Rather than express outrage, or even annoyance at the possibility of a car break-in, people tried to communicate with the potential thief in conciliatory terms. The translation of 'no radio' is: "Please break into someone else's car, there's nothing in mine." These 'no radio' signs are flags of urban surrender. They are hand-written capitulations. Instead of 'no radio,' we need new signs that say 'no surrender.'

And what is so striking today is not simply the increased *number* of violent crimes, but the *nature* of those crimes. It is no longer "just" murder we see, but murders with a prologue, murders accompanied by acts of unspeakable cruelty and inhumanity.

From pop culture, with our own ears, we have heard the terrible debasement of music. Music, harmony and rhythm find their way into the soul and fasten mightily upon it, Plato's *Republic* teaches us. Because music has the capacity to lift us up or to bring us down, we need to pay more careful attention to it. It is a steep moral slide from Bach, and even Buddy Holly, to Guns 'n Roses and 2 Live Crew. This week an indicted murderer, Snoop Doggy Dogg, saw his rap album, "Doggystyle," debut at number one. It may be useful for you to read, as I have, some of his lyrics and other lyrics from heavy metal and rap music, and then ask yourself: how much worse could it possibly get? And then ask yourself: what will happen when young boys who grow up on mean streets, without fathers in their lives, are constantly exposed to music which celebrates the torture and abuse of women?

There is a lot of criticism directed at television these days—the casual cruelty, the rampant promiscuity, the mindlessness of sit-coms and soap operas. Most of the criticisms are justified. But this is not the worst of it. The worst of television is the day-time television talk shows, where indecent exposure is celebrated as a virtue. It is hard to remember now, but there was once a time when personal failures, subliminal desires, and perverse taste were accompanied by guilt or embarrassment, at least by silence.

Today these are a ticket to appear as a guest on the Sally Jessy Raphael show, or one of the dozens or so shows like it. I asked my staff to provide me with a list of some of the day-time talk-show topics from only the last two weeks. They include: cross-dressing couples; a three-way love affair; a man whose chief aim in life is to sleep with women and fool them into thinking that he is using a condom during sex; women who can't say no to cheating; prostitutes who love their jobs; a former drug dealer; and an interview with a young girl caught in the middle of a bitter custody battle. These shows present a two-edged problem to society: the first edge is that some people want to appear on these shows in order to expose themselves. The second edge is that lots of people are tuning in to watch them expose themselves. This is not a good thing to get used to.

Who's to blame? Here I would caution conservatives against the tendency to blame liberals for our social disorders. Contemporary liberalism does have a lot for which to answer; many of its doctrines have wrought a lot of damage. Universities, intellectuals, think tanks, and government departments have put a lot of poison into the reservoirs of national discourse. But to simply point the finger of blame at liberals and elites is wrong. The hard fact of the matter is that this was not something done to us; it is also something we have done to ourselves. Liberals may have been peddling from an empty wagon, but we were buying.

Much of what I have said is familiar to many of you. Why is this happening? What is behind all this? Intelligent arguments have been advanced as to why these things have come to pass. Thoughtful people have pointed to materialism and consumerism; an overly permissive society; the writings of Rousseau, Marx, Freud, Nietzsche; the legacy of the 1960s; and so on. There is truth in almost all of these accounts. Let me give you mine.

Spiritual Acedia

I submit to you that the real crisis of our time is spiritual. Specifically, our problem is what the ancients called *acedia*. *Acedia* is the sin of sloth. But *acedia*, as

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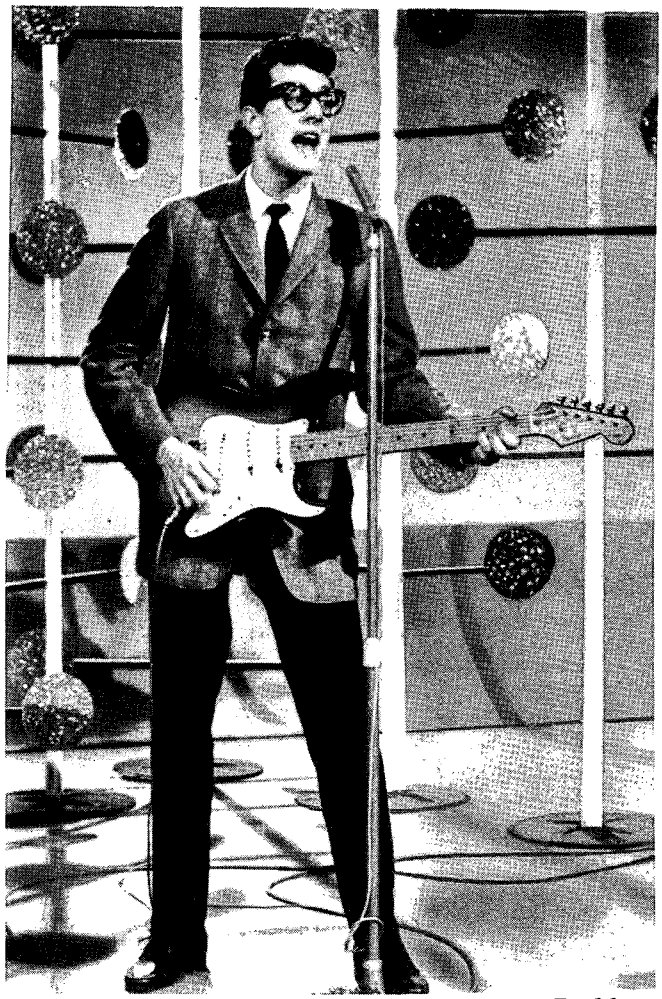

Photofest

"It is a steep moral slide from Bach, and even Buddy Holly, to Guns 'n Roses and 2 Live Crew."

understood by the saints of old, is *not* laziness about life's affairs (which is what we normally think sloth to be). *Acedia* is something else; properly understood, *acedia* is an aversion to and a negation of *spiritual* things. *Acedia* reveals itself as an undue concern for external affairs and worldly things. *Acedia* is spiritual torpor; an absence of zeal for divine things. And it brings with it, according to the ancients, "a sadness, a sorrow of the world."

Acedia manifests itself in man's "joyless, ill-tempered, and self-seeking rejection of the nobility of the children of God." The slothful man *hates* the spiritual, and he wants to be free of its demands. The old theologians taught that *acedia* arises from a heart steeped in the worldly and carnal, and from a *low esteem* of divine things. It eventually leads to a hatred of the good altogether. With hatred comes more rejection, more ill-temper, more sadness, and sorrow.

Spiritual *acedia* is not a new condition, of course. It is the seventh capital sin. But today it is in ascendance. In coming to this conclusion, I have relied on two literary giants—men born on vastly different continents, the product of two completely different worlds, and shaped by wholly different experiences—yet writers who possess strikingly similar views, and who have had a profound impact on my own thinking. It was an unusual and surprising moment to find their views coincident.

When the late novelist Walker Percy was asked what concerned him most about the future of America, he answered:

> Probably the fear of seeing America, with all its great strength and beauty and freedom... gradually subside into decay through default and be defeated, not by the Communist movement.... but from within by weariness, boredom, cynicism, greed and in the end helplessness before its great problems.

And here are the words of the prophetic Aleksandr Solzhenitsyn (echoing his 1978 Harvard commencement address in which he warned of the West's "spiritual exhaustion"):

> In the United States the difficulties are not a Minotaur or a dragon—not imprisonment, hard labor, death, government harassment and censorship—but cupidity, boredom, sloppiness, indifference. Not the acts of a mighty all-pervading repressive government but the failure of a listless public to make use of the freedom that is its birthright.

What afflicts us, then, is a corruption of the heart, a turning away in the soul. Our aspirations, our affections and our desires are turned toward the wrong things. And only when we turn them toward the right things—toward enduring, noble, spiritual things—will things get better.

Lest I leave the impression of bad news on all fronts, I do want to be clear about the areas where I think we have made enormous gains: material comforts, economic prosperity and the spread of democracy around the world. The American people have achieved a standard of living unimagined 50 years ago. We have seen extraordinary advances in medicine, science and technology. Life expectancy has increased more than 20 years during the last six decades. Opportunity and equality have been extended to those who were once denied them. And of course America prevailed in our "long, twilight struggle" against communism. Impressive achievements, all.

Yet even with all of this, the conventional analysis is still that this nation's major challenges have to do with getting more of the same: achieving greater economic growth, job creation, increased trade, health care, or more federal programs. Some of these things are desirable, such as greater economic growth and increased trade; some of them are not, such as more federal programs. But to look to any or all of them as the solution to what ails us is akin to assigning names to images and shadows, it so widely misses the mark.

If we have full employment and greater economic growth—if we have cities of gold and alabaster—but our children have not learned how to walk in goodness, justice, and mercy, then the American experiment, no matter how gilded, will have failed.

I realize I have laid down strong charges, a tough indictment. Some may question them. But if I am wrong, if my diagnosis is not right, then someone must explain to me this: why do Americans feel so bad when things are

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economically, militarily and materially so good? Why amidst this prosperity and security are enormous numbers of people—almost 70 percent of the public—saying that we are off track? This paradox is described in the Scottish author John Buchan's work. Writing a half-century ago, he described the "coming of a too garish age, when life would be lived in the glare of neon lamps and the spirit would have no solitude." Here is what Buchan wrote about his nightmare world:

> In such a [nightmare] world everyone would have leisure. But everyone would be restless, for there would be no spiritual discipline in life....It would be a feverish, bustling world, self-satisfied and yet malcontent, and under the mask of a riotous life there would be death at the heart. In the perpetual hurry of life there would be no chance of quiet for the soul.... In such a bagman's paradise, where life would be rationalised and padded with every material comfort, there would be little satisfaction for the immortal part of man.

During the last decade of the twentieth century, many have achieved this bagman's paradise. And this is not a good thing to get used to.

In identifying spiritual exhaustion as the central problem, I part company with many. There *is* a disturbing reluctance in our time to talk seriously about matters spiritual and religious. Why? Perhaps it has to do with the modern sensibility's profound discomfort with the language and the commandments of God. Along with other bad habits, we have gotten used to not talking about the things which matter most—and so, we don't.

One will often hear that religious faith is a private matter that does not belong in the public arena. But this analysis does not hold—at least on some important points. Whatever your faith—or even if you have none at all—it is a fact that when millions of people stop believing in God, or when their belief is so attenuated as to be belief in name only, enormous public consequences follow. And when this is accompanied by an aversion to spiritual language by the political and intellectual class, the public consequences are even greater. How could it be otherwise? In modernity, *nothing* has been more consequential, or more public in its consequences, than large segments of American society privately turning away from God, or considering Him irrelevant, or declaring Him dead. Dostoyevsky reminded us in *Brothers Karamazov* that "if God does not exist, everything is permissible." We are now seeing "everything." And much of it is not good to get used to.

Social Regeneration

What can be done? First, here are the short answers: do not surrender; get mad; and get in the fight. Now, let me offer a few, somewhat longer, prescriptions.

1. At the risk of committing heresy before a Washington audience, let me suggest that our first task is to recognize that, in general, we place too much hope in politics. I am certainly not denying the impact (for good and for ill) of public policies. I would not have devoted the past decade of my life to public service—and I could not work at the Heritage Foundation—if I believed that the work with which I was engaged amounted to nothing more than striving after wind and ashes. But it is foolish, and futile, to rely primarily on politics to solve moral, cultural, and spiritual afflictions.

Photofest

"There was once a time when personal failures, subliminal desires, and perverse taste were accompanied by guilt or embarrassment. Today these are a ticket to appear on the Sally Jessy Raphael show."

The last quarter-century has taught politicians a hard and humbling lesson: there are intrinsic limits to what the state can do, particularly when it comes to imparting virtue, and forming and forging character, and providing peace to souls. Samuel Johnson expressed this (deeply conservative and true) sentiment when he wrote "How small, of all that human hearts endure, That part which laws or kings can cause or cure!"

King Lear was a great king—sufficient to all his political responsibilities and obligations. He did well as king, but as a father and a man, he messed up terribly. The great king was reduced to the mud and ignominy of the heath, cursing his daughters, his life, his gods. Politics *is* a great adventure; it is greatly important; but its proper place in our lives has been greatly exaggerated. Politics—especially inside the Beltway politics—has too often become the graven image of our time.

2. We must have public policies that once again make the connection between our deepest beliefs and our legislative agenda. Do we Americans, for example, believe that man is a spiritual being with a potential for individual nobility and moral responsibility? Or do we believe that his ultimate fate is to be merely a soulless cog in the machine of state? When we teach sex-education courses to teen-agers, do we treat them as if they are young

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animals in heat? Or, do we treat them as children of God?

In terms of public policy, the failure is not so much intellectual; it is a failure of will and courage. Right now we are playing a rhetorical game: we say one thing and we do another. Consider the following:

- We say that we desire from our children more civility and responsibility, but in many of our schools we steadfastly refuse to teach right and wrong.
- We say that we want law and order in the streets, but we allow criminals, including violent criminals, to return to those same streets.
- We say that we want to stop illegitimacy, but we continue to subsidize the kind of behavior that virtually guarantees high rates of illegitimacy.
- We say that we want to discourage teenage sexual activity, but in classrooms all across America educators are more eager to dispense condoms than moral guidance.
- We say that we want more families to stay together, but we liberalize divorce laws and make divorce easier to attain.
- We say that we want to achieve a color blind society and judge people by the content of their character, but we continue to count by race, skin and pigment.
- We say that we want to encourage virtue and honor among the young, but it has become a mark of sophistication to shun the language of morality.

3. We desperately need to recover a sense of the fundamental purpose of education, which is to provide for the intellectual *and* moral education of the young. From the ancient Greeks to the founding fathers, moral instruction was *the* central task of education. "If you ask what is the good of education," Plato said, "the answer is easy—that education makes good men, and that good men act nobly." Jefferson believed that education should aim at improving one's "morals" and "faculties." And of education, John Locke said this: "Tis' virtue that we aim at, hard virtue, and not the subtle arts of shifting." Until a quarter-century or so ago, this consensus was so deep as to go virtually unchallenged. Having departed from this time-honored belief, we are now reaping the whirlwind. And so we talk not about education as the architecture of souls, but about "skills facilitation" and "self-esteem" and about being "comfortable with ourselves."

4. As individuals and as a society, we need to return religion to its proper place. Religion, after all, provides us with moral bearings. And if I am right and the chief problem we face is spiritual impoverishment, then the solution depends, finally, on spiritual renewal. I am not speaking here about coerced spiritual renewal—in fact, there is no such thing—but about renewal freely taken.

The enervation of strong religious beliefs—*in both our private lives as well as our public conversations*—has de-moralized society. We ignore religion and its lessons at our peril. But instead of according religion its proper place, much of society ridicules and disdains it, and mocks those who are serious about their faith. In America today, the only respectable form of bigotry is bigotry directed against religious people. This antipathy toward religion cannot be explained by the well-publicized moral failures and financial excesses of a few leaders or charlatans, or by the censoriousness of some of their followers. No, the reason for hatred of religion is because it forces modern man to confront matters he would prefer to ignore.

IT IS FOOLISH, AND FUTILE, TO RELY PRIMARILY ON POLITICS TO SOLVE MORAL, CULTURAL, AND SPIRITUAL AFFLICTIONS.

Every serious student of American history, familiar with the writings of the founders, knows the civic case for religion. It provides society with a moral anchor—and nothing else has yet been found to substitute for it. Religion tames our baser appetites, passions, and impulses. And it helps us to thoughtfully sort through the "ordo amoris," the order of the loves.

But remember, too, that for those who believe, it is a mistake to treat religion merely as a useful means to worldly ends. Religion rightly demands that we take seriously not only the commandments of the faith, but that we also take seriously the object of the faith. Those who believe know that although we are pilgrims and sojourners and wanderers in this earthly kingdom, ultimately we are citizens of the City of God—a City which man did not build and cannot destroy, a City where there is no sadness, where the sorrows of the world find no haven, and where there is peace the world cannot give.

Pushing Back

Let me conclude. In his 1950 Nobel Prize acceptance speech, William Faulkner declared "I decline to accept the end of man." Man will not merely endure but prevail because, as Faulkner said, he alone among creatures "has a soul, a spirit capable of compassion and sacrifice and endurance."

Today we must in the same way decline to accept the end of moral man. We must carry on the struggle, for our children. We will push back hard against an age that is pushing hard against us. When we do, we will emerge victorious against the trials of our time. When we do, we will save our children from the decadence of our time.

We have a lot of work to do. Let's get to it. ☎

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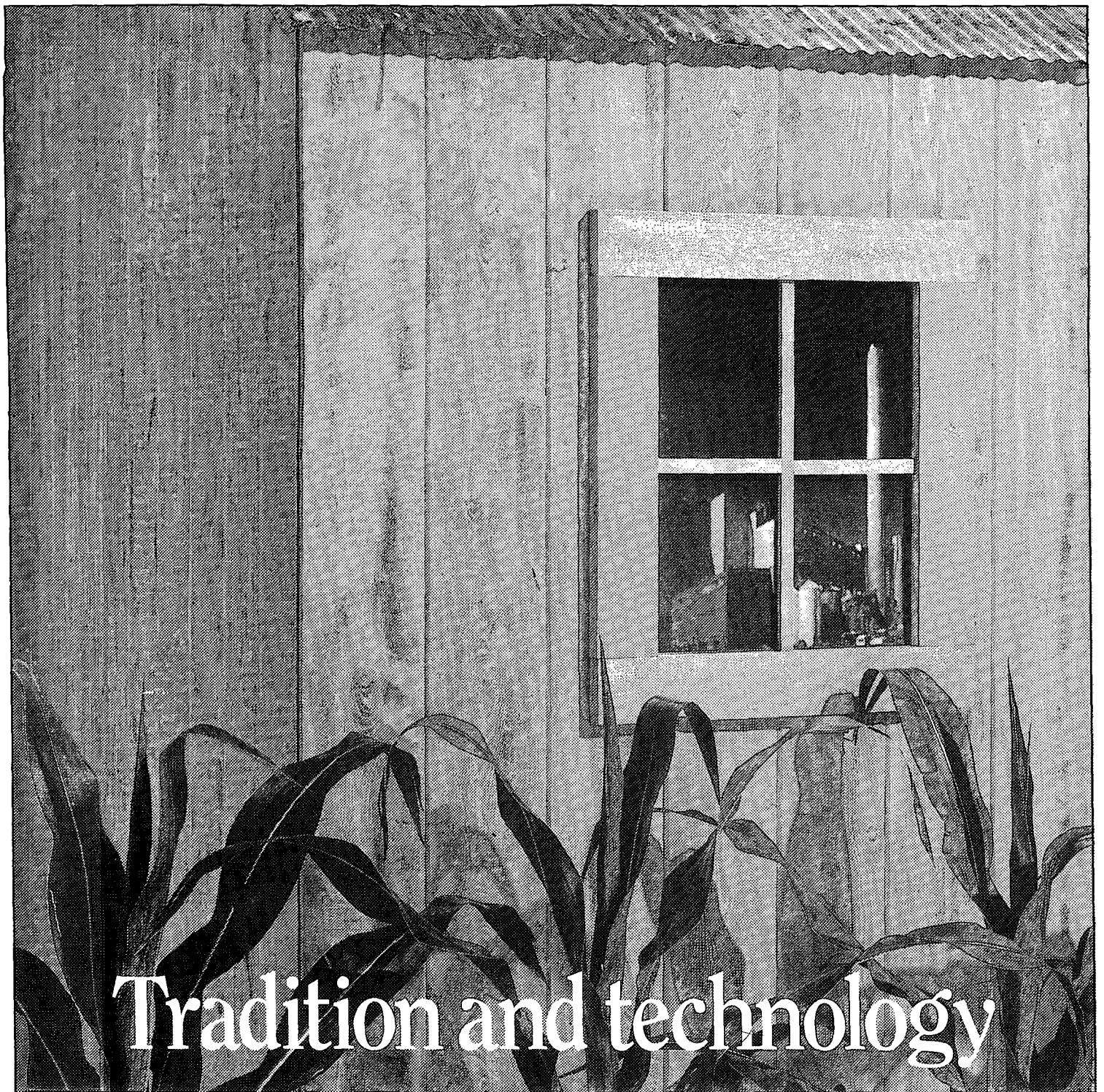

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Social and Economic Conservatives Are Singing the Same Song

Representative Dick Armey

An old ghost returned to haunt the Republican Party during the debate over the North American Free Trade Agreement (NAFTA). While the party's economic conservatives, true to the free trade orthodoxy of the Reagan era, immediately leapt to support the pact, the party's social conservatives were suspicious of it from the start. One pro-life leader captured the depths of the minischism when she remarked, "only the establishment's for NAFTA"—meaning "only" the economic conservatives with whom she had made common cause for 12 years.

Like the intraparty disputes over abortion, gay rights, taxing the rich, or a host of other issues, the NAFTA campaign has raised serious questions in some minds about the coherence of the Republican Party. On one side of the party, they see economic conservatives champion lower taxes, less regulation, and free trade. On the other, the cultural conservatives who, in their view, take decidedly unlibertarian positions on social issues and often seem lukewarm in their support for classical market economics. While the two groups may have been held together in the past by a shared anticommunism or their mutual enthusiasm for Ronald Reagan, the argument runs, on a number of issues the two camps are now divided.

Fears of Fratricide

Even the conscience of conservative Barry Goldwater, who did as much as anyone to build the modern Republican Party, is troubled by a sense of inconsistency. Surveying the cultural conservatives' consternation over President Clinton's plan to put gays in the military, the former senator told a gay newspaper, "The Republican Party should stand for freedom and only for freedom ... freedom means doing what you damn well please. To see the party that fought communism and big government now fighting gays, well, that's just plain dumb."

Senator Goldwater alludes to the key question: Is there an inherent contradiction between the party's support for economic freedom and its social agenda?

If so, the GOP is divided against itself, and presents a potentially unstable coalition that could fly apart—particularly as we enter the new, post-Cold War world. Any armchair political scientist could easily imagine the party transforming itself into a "more consistent" William Weld party with the goal of keeping the government off our backs and out of our bedrooms. Or it could become a party combining social conservatives and protectionist trade unionists—a Pat Buchanan party supporting traditional values and putting "America First."

More likely, the party could "go the way of the Whigs," destroying itself in fratricidal battles and leaving Ross Perot to occupy the ruins.

Before the professional doomsayers get carried away about the GOP's future, however, we should remember that the problem of internal division has visited the party many times since modern conservatism's inception. The tensions we see today pale in comparison to the dispute that raged in the 1950s between the followers of libertarian-leaning Friedrich von Hayek and the traditionalists led by Russell Kirk. That argument was resolved so completely by William F. Buckley Jr. and the intellectual battalions at *National Review* that generations of conservatives—myself included—have grown up feeling perfectly at home among the most ardent partisans of both camps.

There is, in fact, no inherent contradiction among the strains of conservatism. If we reconsider and resolve again this old argument between our party's economic and cultural conservatives, we will find that they both are firmly united behind a freedom agenda.

The Right Side of History

I happen to agree with Senator Goldwater that the best way to describe ourselves in the 1990s is as "the party of freedom." That phrase best captures our basic values as we confront the most statist administration in 30 years.

After a President flying the Republican banner—however weakly—was kicked out of the White House with 62 percent of the country voting against him, we urgently need a fresh way to explain ourselves to an understandably surly and skeptical electorate.

This does not mean recasting ourselves. Our situation today is very different from the profound spiritual crisis facing McGovernite-New Deal Democrats after a similar debacle in 1980. Their deepest beliefs and policies had been utterly repudiated by events—and they knew it. The

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The cultural conservatives' campaign against abortion is actually waged in the defense of freedom—an individual's freedom to live.

Democrats' failure to arrest inflation, or even comprehend its causes, proved that they did not have a clue about how to run the government in a modern, capitalist economy. They made an enormous effort to resolve an energy crisis which, we discovered a few Republican policies later, did not exist. The trillions of dollars they spent waging war on poverty netted them (and us) only an unprecedented crime wave and a brutal subculture in the inner cities. Their generous attempts to appease the Soviets produced genocide in Afghanistan and 300 new missiles aimed at Europe. In short, the Democrats' entire world view was shattered. Young, ambitious Democratic candidates had no choice but to call themselves "New Democrats," until one was convincing enough to ride a plurality into the White House—with a little help from Mr. Perot.

The Party of Freedom

In the Republican case, our world view has been completely vindicated by events since 1980. From the moment our tax cuts and deregulation began taking effect in 1982, our economy entered the longest peacetime expansion in history, growing by nearly a third, an achievement equal to grafting the entire German economy onto ours. All income groups, contrary to the numbers cooked up by the Democrat-controlled Congressional Budget Committee, saw their incomes rise by at least 10 percent. This recovery of our economic strength, combined with Reagan-inspired self-confidence and a formidable arms build-up, relegated the Soviet Empire to the ash heap of history, and left us more secure from foreign aggression than at any time since 1918.

Now, as we enter the post-Cold War world, we are as ideologically vital as we ever were. One might have expected a certain exhaustion to set in as we searched for new policies for a new era. It hasn't happened. The only new ideas for addressing our schools and cities—from school choice to enterprise zones to urban homesteading—are Republican ideas. We own the crime issue, as the public supports us on the death penalty, more prisons, and more police. And there is no way to understand what has happened to the economy since President Reagan left office except as a consequence of the reversal of his policies, demanding their immediate reinstatement.

We don't need, then, a reworking of our platform—to give up ideas we believe in for ones we don't believe in,

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as Margaret Thatcher once said of her opposition. But we do need a new way to explain ourselves to our own followers and to the general public. "The Party of Freedom," I believe, best captures the essence of what we are about and will effectively undermine both the elitism of Bill Clinton and the counterfeit populism of Ross Perot.

Freedom To Do What?

Freedom has actually been a controversial theme in conservative history. Back in the wilderness years of the late 1940s and early 1950s, the traditionalists, forerunners of today's cultural conservatives, were wary of Friedrich von Hayek and his followers, partly out of an aristocratic fear that the free market could erode time-tested traditions, but mainly because they smelled in their writings the smoke of an extreme libertarian ideology. As Russell Kirk put it in 1988, echoing his point of 30 years earlier:

> The ruinous failing of ideologues who call themselves libertarians is their fanatic attachment to a simple and solitary principle—that is, the notion of freedom as the whole end of civil order, and indeed of human existence.

The emphasis on freedom, the traditionalists argued, implied that other values—or any values—were unimportant. Freedom is a mere process, desperately begging the question: "freedom to do what?" It was much better, in their opinion, for conservatives to rally around substantive values, like belief in God and a transcendent order in the universe. Without such grounding, celebrating freedom could easily collapse into a celebration of raw libertinism.

But being the party of freedom did not mean then, nor does it mean now, that we believe individuals should be freed from all social restraint. In contrast to our genuinely libertarian friends, we firmly believe that the influence of family, the weight of tradition, and above all religious conviction are essential for individuals to live virtuous lives, which we accept as the only proper end of human life. We simply make a crucial distinction between these forms of social control, which are not enforced by physical coercion, and the power of the central government, which most certainly is.

Nor does the party-of-freedom label mean that we necessarily oppose local and even state laws that regulate behavior. We are certainly skeptical of them, but they at least have the virtue of applying locally, where they are more likely to reflect the general wishes of the governed and are comparatively easy to repeal if they do not. They also leave individuals with the ability to vote with their feet and move to a less restrictive jurisdiction. When laws are formulated in Washington, D.C. and applied to the entire nation, there is no such escape. Anyone wishing to live near any major American city today, for example, cannot evade the crime spreading from inner cities laid waste by the Great Society.

True free-market conservatives have in fact long argued that personal virtue is essential for freedom to work. As Hayek himself wrote:

> It is indeed a truth, which all the great apostles of freedom outside the purely rationalistic school have never tired of emphasizing, that freedom has never worked without deeply ingrained moral beliefs and that coercion can be reduced to a minimum only where individuals can be expected as a rule to conform voluntarily to certain principles.

Freedom, to us, does not mean freedom to do whatever one wants; it means maximum freedom from government control, particularly central government control.

As for the argument that traditional values must suffer under the dynamism of a free-market economy, a number of writers in our own time, especially Michael Novak and George Gilder, have put that idea soundly to rest. As Mr. Gilder wrote in *Wealth and Poverty*:

> Under capitalism, the ventures of reason are launched into a world ruled by morality and Providence. The gifts [produced by capitalists] will succeed only to the extent that they are altruistic and spring from an understanding of the needs of others. They depend on faith in an essentially fair and responsive humanity.

Or, as I would put it, the market punishes immorality. If one is indifferent to the needs of his fellow citizens in a capitalist economy, he will find himself in poverty, just as he will if he earns a reputation for dishonesty and fraud. As Walter Lippmann wrote, in the free market "the golden rule is economically sound." Today, as free market economics have proven spectacularly successful across the globe, the idea of freedom is far less controversial on the Right than the notion that the cultural conservative agenda is inconsistent with it. Among some economic conservatives, and especially among moderate Republicans and America's vast political middle, a perception has taken hold that the cultural conservatives are an illiberal force, intent on using the federal government to impose religious values on people who may not share them. The charge is plainly false and stems, I think, from a fundamental misunderstanding of what cultural conservatives are all about.

AS WE CONFRONT THE MOST STATIST ADMINISTRATION IN 30 YEARS, THE BEST WAY TO DESCRIBE OURSELVES IS "THE PARTY OF FREEDOM."

Rise of Religious Conservatives

The first thing that needs to be understood about today's cultural conservatives, which I rather loosely identify with the religious right, is that they are entirely a defensive movement. It's not as if Pat Robertson and his compatriots were brainstorming one afternoon and suddenly hit upon the idea of infiltrating the government and using its power for their own ends.

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There was never an attempt by cultural conservatives to to use federal power to encourage an "Ozzie and Harriet"-style family arrangement.

Rather, millions of evangelicals and orthodox Catholics in the 1970s felt their way of life to be under subtle but determined attack by federal policies. They organized politically, after decades of shunning politics, not to impose their beliefs on others, but because the federal government was imposing its values on them.

Specifically, many leading cultural conservatives point to the threat of government regulation of private schools as the catalyzing event. Paul Weyrich writes:

> What caused the movement to surface was the federal government's moves against Christian schools. This absolutely shattered the Christian community's notion that Christians could isolate themselves inside their own institutions and teach what they pleased. The realization that they could not then linked them to the long-held conservative view that government is too powerful and intrusive, and this linkage is what made the evangelicals active.

Richard Viguerie, who observed the movement from its inception, points in particular to a proposed IRS ruling in 1978 that would have saddled all private schools with the burden of proving that they were not founded to evade antidiscrimination laws—a ruling that would have put federal authorities in the position of denying Christian schools their tax exempt status on dubious grounds. Ralph Reed Jr., the executive director of the Christian Coalition, agrees. "The spark that ignited the pro-family movement was the fear of increased government regulation of church schools."

Other issues were crucial as well. Phyllis Schlafly was mainly occupied with national security issues until she was confronted with the proposed Equal Rights Amendment in 1972. Faced with the prospect that overreaching federal courts would use the loosely worded amendment to justify unprecedented intrusions into private affairs, possibly even moving against the Catholic Church for harboring an all-male clergy, she organized hundreds of thousands of new political activists.

And even the enemies of the cultural conservative movement recognize the crucial importance of the Supreme Court's *Roe* v. *Wade* abortion decision. "*Roe* was a powerful stimulus to the right-to-life movement," the editors of the *New Republic* wrote in 1989, "which in turn was a cornerstone of the New Right, which is still a powerful political force today."

Nothing provoked more justified fear among devout believers than the sudden realization in the 1970s that an appointed, nine-member court could—with no accountability—impose its views on abortion, pornography, public prayer, education, and even sexuality on every community in the country.

Someone once quipped that "America is a country with a population as religious as India's ruled by a political elite as secular as Sweden's." Devout believers in middle America have certainly long believed that to be true, and they warily tolerated it. But once it became clear that an arbitrary federal authority could strike down the considered laws of 50 state legislatures on a whim, extend its control to religious institutions, and use amendments to the Constitution to engineer social revolutions, very little seemed safe. The cultural conservatives' "diabolical" agenda was, and is, simply to neutralize the government's influence on disputed moral questions, and then to minimize the government's power to ensure it would not threaten their way of life in the future.

Defending Family Rights

To be sure, the ACLU and other groups delight in finding some religious right field organizer who takes a more expansive view of cultural conservative goals. Occasionally, some religious right leaders have made intemperate remarks. But we can best judge the intentions of the movement by the issues it has actually pursued in the national arena. Far from being the right-wing Savonarolas of ACLU executive director Ira Glasser's imagination, their goals have been remarkably modest.

Take the debate over funding for the National Endowment for the Arts (NEA,) an important issue because it served more than any other to feed the Left's fantasies of martyrdom at the hands of cultural fanatics. The NEA, a government board which doles out $170 million in arts funding, found itself in a maelstrom in 1989 when it chose to fund an absurd work of art by the artist Andres Serrano. Mr. Serrano used NEA money to take a crucifix, suspend it in a jar of human urine, and photograph it. Naturally, Christians and members of other faiths across the country were outraged—but at what? Not especially at Mr. Serrano, but at the federal government for using their money to subsidize him.

Although the Left cried censorship, I defy anyone to

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find a moment in the debate when cultural conservatives questioned Mr. Serrano's right to produce his "art." They simply argued that the taxpayers should not finance it. It was as if the art community believed censorship was having someone try to deny an artist a federal check.

I argued that if we were really opposed to censorship, we ought to close down the NEA entirely and avoid having an unelected government board deciding what constitutes art and what does not—a position which earned me the praise of such religious right leaders as Mississippi's Reverend Donald Wildmon.

Notice that the religious right did not argue that the federal government should reverse itself and fund Christian art, only that it remain neutral, neither encouraging nor discouraging particular works. That didn't stop the avant garde left from calling religious conservatives "cultural ayatollahs."

On another telling issue, a couple of years earlier, Congress was debating a child care bill that had been drafted, more or less, by Marion Wright Edelman of the Children's Defense Fund. The bill would have set up a new federal bureaucracy of Great Society proportions to funnel money to child-care centers–but only federally regulated child-care centers. That meant only large, secular child-care institutions. If a child-care center was in a church basement, it might still get money, but only after it put tarps over any crosses or other religious ornaments evident on the walls.

Conservatives, led by The Eagle Forum and Concerned Women for America, strenuously opposed the plan as "anti-family." It was not that they objected to people placing their children in daycare, something that was clearly a matter of individual choice. The problem was

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that the government would in effect be encouraging only one type of child-rearing arrangement—working parents who put their children in large child-care centers. At the same time, it would force all families, including so-called traditional families that made huge sacrifices to raise their children in their own homes, to foot the bill.

They proposed instead a neutral alternative. Rather than give the money to the child-care centers, why not give it directly to parents and allow them to spend it as they saw fit? That way, the parents could use the money to alleviate the costs of whatever child-rearing arrangements they chose—whether that was raising their children in the home with a stay-at-home parent, placing them in daycare, or placing their children in an informal child-care setting, such as in the care of a relative or neighbor. There was never an attempt by the cultural conservatives to use federal power to encourage an "Ozzie and Harriet"-style family arrangement, as Representative Pat Schroeder derisively puts it. They simply asked that the government remain even-handed and allow free people to decide their family styles themselves, without the decision being unduly influenced by Washington.

What about all the school textbook cases, which earned the cultural conservatives the epithet of "book burners" by the civil libertarians? Every once in a while

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politically active Christians are charged with trying to have certain textbooks removed from school shelves, or have creationism taught alongside evolution, or insist that sex education be based on abstinence. Their opponents revel in these cases, since such issues allow them to portray cultural conservatives in the worst, most anti-intellectual, know-nothing light. But with rare, localized exceptions, the religious right in these cases was defending the communities' right of self-determination against encroachments from distant government authorities. In the old issue of prayer in the classroom, for example, individual communities chose to pray in public, as they had for as long as anyone could remember. Federal court orders said they could not.

In other misunderstood cases, the rights of parents themselves were threatened. For weeks this fall, in one example, voters in Northern Virginia were carpet-bombed with political ads charging that a Republican candidate wanted to have the *Wizard of Oz* taken out of a school curriculum. The charge was not true. In fact, the candidate had simply given legal advice to some parents who, for religious reasons, did not want their children reading books containing good witches. These parents didn't want the book taken off the shelves; they merely wanted school authorities to refrain from forcing their children to read it.

Resisting the Gay Agenda

Finally, let's examine gays in the military, the issue that so exercised Senator Goldwater. While many military retirees opposed the policy on the grounds of military effectiveness—a position anyone interested in preserving freedom could endorse—the cultural conservatives were mainly concerned that the government would be casting an aura of legitimacy on the gay lifestyle, and thus take sides on an issue that was being hotly debated in the society at large.

As the cultural conservatives see it, society as a whole is still unsure of how we should respond as individuals to

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our gay citizens. Certainly the public is becoming more tolerant of gays, but it is not clear where this will lead. Some believe that homosexuality is normal and healthy and should be treated as such. Others believe it is a moral abomination and should be discouraged. Still others, the majority in my opinion, decline to pass judgment on gays as individuals but shrink from endorsing their lifestyle. If the federal government were to abruptly change a long-standing tradition and allow gays in the armed forces, it would throw its enormous moral authority behind the first view, possibly preventing a different, more appropriate, social consensus from developing.

Indeed, the so-called "anti-gay" agenda of religious conservatives is geared toward nothing more than preserving people's freedom to decide for themselves how to respond to gays. Colorado recently earned itself the enmity of half of Hollywood when it passed a proposition denying gays special privileges under law. In practice, the Colorado proposition means that if a person believes homosexuality is normal, he is free to act accordingly. But if he believes that it is immoral or unhealthy and doesn't want his children exposed to it, he cannot be forced to rent his spare bedroom to a practicing homosexual couple. (Significantly, when a group tried to persuade Oregon voters to adopt a broader proposition, one which would actually declare in law that homosexuality was wrong, the voters rejected it, and the group has since rightly confined itself to working for "no special privileges.")

NOTHING PROVOKED MORE JUSTIFIED FEAR AMONG DEVOUT BELIEVERS THAN THE SUDDEN REALIZATION THAT AN APPOINTED, NINE-MEMBER COURT COULD—WITH NO ACCOUNTABILITY—IMPOSE ITS VIEWS ON ABORTION, PORNOGRAPHY, PUBLIC PRAYER, EDUCATION, AND EVEN SEXUALITY ON EVERY COMMUNITY IN THE COUNTRY.

We are still left to deal with the difficult issue of abortion, however. Many who have followed this reasoning so far will still consider abortion as Exhibit A in their contention that the cultural conservatives mean to interfere with individual freedom. But that depends on what one means by "individual." If we accept the idea that the fetus is a human being, then the cultural conservatives' campaign against abortion is actually waged in the defense of freedom—an individual's freedom to live. Even an extreme libertarian accepts an absolute obligation for the government to protect its people from unjust aggression by others. Assuming that an unborn child is in fact a person—as I firmly believe it is—there can be no problem, and certainly no philosophical inconsistency, in supporting the government's duty to defend it.

William F. Buckley Jr., I thought, put the issue quite well. When one of this guests on "Firing Line" asked him how he could advocate "getting the government off our backs" at the same time he desired the government to "reach into our homes" and restrict abortion, he replied: "Why, for the same reason the government can 'reach into my home' and tell me I can't have a slave in the closet." In each case, it is merely defending a basic human right. Whatever differences individuals within the party have on abortion, they have nothing to do with different philosophies about the role of government and everything to do with different philosophies of humanity itself.

A Cultural Free Market

It is certainly true that on the most prominent cultural issues—the values displayed in art, family arrangements, attitudes towards homosexuals—cultural conservatives have pronounced personal views. What is striking, however, is that they rarely look to the government, certainly not the federal government, to enforce their views, let alone to impose them on others. Their political program, properly understood, is nothing more than to neutralize the government's influence on disputed value questions and minimize the government's power in order to prevent it from attempting to exert any such influence in the future. They want the government to allow people to decide these issues by themselves.

Allow people to decide these issues by themselves. Here we can see the clear link between the cultural and economic conservatives. The economic conservatives are devoted to the idea of a self-regulating free market to achieve the best possible distribution of economic goods. The cultural conservatives—as judged by their actual political program—implicitly believe in a kind of cultural free market in which free people, regulated through largely noncoercive means, may arrive at the best possible solution to the social questions that currently divide us.

As they see it, if the federal government were not subsidizing bigoted anti-Christian art, that art would be rejected by the public and consigned to a limited counter-culture audience. Without federal subsidies of family disintegration—either in the form of welfare programs that have destroyed our inner cities and child- care programs geared solely to the institutionalization of children—the traditional family would flourish as it has in generations past. And without President Clinton using the enormous federal bureaucracy to express his personal view of homosexuality, a social consensus on the subject would naturally evolve—one that neither persecutes homosexuals nor accepts their lifestyle as normal, happy and healthy. Fervent proselytizers though they may be in their private life, the cultural conservatives' political program is aimed solely at minimizing the government's role in these issues.

Cultural conservatives fear the power of the modern

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is aimed solely at minimizing the government's role in these issues.

Cultural conservatives fear the power of the modern state for precisely the reason that Hayek, the patron saint of modern market economics, outlined 50 years ago in *The Road to Serfdom.* They know that with its enormous control of economic resources—the power to tax, to fund programs, to regulate vast types of activities—the state can slowly but determinedly spread its control over their culture and erode their way of life.

Leading Virtuous Lives

Anyone who has spent much time around flesh-and-blood cultural conservatives—say, your average Southern Baptist family in Texas, for example—knows that they have utmost confidence that, as long as the central government does not take sides on disputed value questions, people are most likely to live virtuous lives, as they understand them. If the only weapon being used in the so-called "culture war" is the entirely peaceful one of persuasion by words and deeds, they believe they will win it. Only when coercive power is employed by a distant, central authority will they lose. Their idea of the world is of a hard-working, God-fearing America that would be doing just fine were it not for government policies that erode traditional values. I think this view is a fair description of our country's plight, but whatever the objective reality, it is clear that the cultural conservatives believe this is the case. They thus neither seek nor desire to capture the government themselves and use it to impose their views on others. They simply want it to get out of the way.

What we have here is an exact parallel among the cultural conservatives to what our economic conservatives are doing in the economic sphere. Just as the economic conservatives do not want the government telling us what type of HDTV we should develop, the cultural conservatives don't want it telling us what type of art we should buy. As the economic conservatives object to Hillary Clinton ushering us all into health alliances against our will, the cultural conservatives object to the government encouraging us to adopt Pat Schroeder's view of the ideal family arrangement. The economic conservatives don't want the government telling us to buy domestic goods when we believe a foreign product may be superior; the cultural conservatives don't want the government telling us to rent our extra room to homosexuals if we believe the gay lifestyle is unhealthy.

Both groups have an identical, surpassing interest in

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more confidence in the collective wisdom of hundreds of millions of free men and women than in all the economic planners and social engineers in Washington, D.C.

Last Gasp of Statism

It is my firm belief that by understanding our party's seamless devotion to freedom we can best equip ourselves to face and defeat the last gasp of 20th century statism, otherwise known as the Clinton Administration. Interestingly, just as our party is a collection of people united in their commitment to limiting government, our Democratic opponents are a disparate lot brought together by nothing but their vested interest in expanding government. One would not ordinarily expect unionized workers, suburban feminists, civil rights activists and militant gays to enjoy one another's company. The reason they work together is that they all understand that government power is central to achieving their goals.

That makes Bill Clinton their ideal president. Although he had the political sense to veer rightward long enough to win a national election, the essence of his program in office has been to expand the government's power and reach. His tax plan, for all the deficit reduction salesmanship, is a plan to finance a 20-percent growth in government by 1997. His much-touted spending cuts, particularly those in defense, serve only to free funds to feed his swelling domestic programs. And that is only a prelude to his prime objective, which is to use the false promise of health security to accomplish a government take-over of the entire health-care industry, totaling one-seventh of our economy.

As Hillary Clinton explained their motives last spring—in a speech the president endorsed—they intend to create a "new politics of meaning," in which a Clinton-led federal government will somehow allow people to feel meaning in their supposedly meaningless lives as they watch the federal bureaucracy spend their money for them for its own ends.

As our cultural conservatives are wrongly maligned, even by some of their own conservative brethren, for supposedly trying to impose their beliefs on everyone else, the Clintons have explicitly stated their intention to use the power of the federal government to impose their values on us—a chilling thought.

By rallying in turn around a "new politics of freedom," we will offer the American people a clear alternative to this grim elitism: A Republican vision celebrating the practical and moral virtues of a free people. ☎

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Immigration and the Founding Fathers

Matthew Spalding

Americans torn by conflicting impulses on the question of immigration may find it helpful to consult the thoughts of the Founding Fathers. The Founders were also torn. They favored open immigration, and yet they worried that the new republic would be endangered if large numbers of foreigners arrived without learning the English language and embracing America's cultural and political institutions. The Founders resolved the dilemma by insisting on the rapid assimilation of newcomers. Men and women would be free to come to America from every country in the world—but only if they became Americans.

From the beginning, Americans wanted to share the blessings of liberty they had secured for themselves with the rest of mankind. The Declaration of Independence cited, as one of its principal grievances against George III, that "He has endeavored to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners, [and] refusing to pass others to encourage their migration hither." The Constitution called upon Congress to establish a uniform naturalization law, and the young republic placed virtually no restrictions on immigration.

Even as they favored plentiful immigration, however, the Founders worried that foreign ideas and influences might undermine America's republican institutions. They feared that concentrations of foreign populations on American soil might exacerbate the risk of factional and sectional conflict. To minimize these dangers, the Founders thought carefully about allowing foreigners to become Americans. The challenge was to make a myriad of peoples into one nation. In this effort the Founders largely succeeded. The lesson for our times is that a free nation can sustain high levels of immigration if it labors carefully at the hard task of making citizens.

Second Land of Promise

The American Revolution, and its experiment in republican government, gave fresh meaning to the concept of the New World as an escape from the Old. Thomas Paine, himself a recent immigrant when he wrote *Common Sense* in 1776, called America "the asylum for the persecuted lovers of civil and religious liberty from every part of Europe." The thought of America as a political refuge was nothing new to the people of New England; their Puritan ancestors had emigrated to escape religious persecution. Now, political asylum was part of the very idea of the nation. George Washington wrote in 1785, "let the poor, the needy and oppressed of the Earth, and those who want Land, resort to the fertile plains of our western country, the Second Land of Promise, and there dwell in peace, fulfilling the first and great commandment."

The Founders expected and welcomed a large influx of immigration. "Those who live under arbitrary power do nevertheless approve of Liberty, and wish for it," Benjamin Franklin wrote John Jay from Paris in 1777. "...[T]hey almost despair of recovering it in Europe; they read the translations of our separate colony constitutions with rapture; and there are such numbers everywhere, who talk of removing to America, with their families and fortunes, as soon as peace and our independence shall be established, that 'tis generally believed we shall have a prodigious addition of strength, wealth, and arts from the emigrations of Europe."

There was also an expectation that the best immigrants would add to the moral capital of the growing country, bringing with them the attributes necessary for the workings of free government. America promised advantages to those "who are determined to be sober, industrious and virtuous members of Society," Washington told a Dutch correspondent in 1788. "And it must not be concealed," he added, "that a knowledge that these are the general characteristics of your compatriots would be a principal reason to consider their advent as a valuable acquisition to our infant settlements."

Economic freedom and the prospect of prosperity would also be a great inducement, adding population and material wealth to the new nation. While many of those who initially immigrated were indentured servants or redemptioners, there were increasing numbers of skilled workers and artisans. Alexander Hamilton, in his 1791 *Report on Manufactures*, pointed out that businessmen are reluctant to move from one country to the next unless "by very apparent and proximate advantages." He believed that the new nation, because of better prices, cheaper

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The Founding Fathers favored open immigration, and yet they worried that the new republic would be endangered if large numbers of foreigners arrived without learning the English language and embracing America's cultural and political institutions.

materials, lower taxes and regulations and greater personal independence, would soon become a haven for the many entrepreneurs and capitalists of the world. Merchants and manufacturers, he predicted, would most likely "flock from Europe to the United States to pursue their own trades or professions, if they were once made sensible of the advantages they would enjoy, and were inspired with an assurance of encouragement and employment."

A Multicultural Stock

The annual flow of newcomers to the young republic was comparable in proportion to the rate of legal immigration today—roughly one quarter of 1 percent of the population. Official records were not kept until 1820, but estimates put total immigration from 1783 to 1815 at about 250,000, at a time when population increased from a little over 2 million to 8.5 million. Annual arrivals after the Treaty of Versailles averaged 6,000, increasing to 10,000 in the late 1790s. Immigration began declining with the Napoleonic Wars, coming almost to a stop with the War of 1812.

Most of the immigrants were Protestants from northern and western Europe, but by the standards of the time, they were a multicultural lot. The first and most plentiful European immigrants were English. Then came the Dutch, the Swedes, the Welsh, and the French Huguenots, followed by significant numbers of German Palatines and Scotch-Irish. From the beginning, different peoples were added to the core English heritage, making the nation a cultural patchwork of languages, manners, and traditions. There was even some immigration of free blacks from the West Indies in the 18th century, though most blacks arrived here as slaves. By 1790, when the first census was taken, only 60 percent of the free population was English derivative, mostly second- or third-generation immigrants; 40 percent were of non-English ancestry.

Initial Guidelines

During the Revolution, soldiers of the Continental Army, whether native or immigrant, swore "to be true to the United States of America and to serve them honestly and faithfully." There was some concern about foreigners in high military and foreign service positions. General Washington, among others, was worried about the many foreigners—like the Marquis de Lafayette, Baron von Steuben, and Count Pulaski—in his officer corps, not because they were inferior or untrustworthy, but because they might weaken morale and cohesiveness. The Continental Congress, at the behest of Thomas Jefferson and John Adams, promulgated a decree of not employing any but native-born citizens as consuls in foreign countries. Nevertheless, there were virtually no restrictions on immigration and few obstacles once immigrants arrived.

Under the Articles of Confederation, the question of citizenship and the naturalization of immigrants remained with the individual states. Pennsylvania allowed any foreigner of "good character," who took an oath of

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allegiance to the state, to acquire property and after one year's residency become a citizen entitled to "all the rights of a natural born subject of this state." New York followed Pennsylvania's model and added a requirement for foreigners to renounce all allegiance to any foreign prince.

THE LESSON FOR OUR TIMES IS THAT A FREE NATION CAN SUSTAIN HIGH LEVELS OF IMMIGRATION IF IT LABORS CAREFULLY AT THE HARD TASK OF MAKING CITIZENS.

Maryland's naturalization law required a declaration of "belief in the christian religion" and an oath of allegiance. In South Carolina, full naturalization required at least two years of residency and a special act of the legislature.

Georgia's laws were the most cautious toward immigrants. During the revolution, one measure required a certificate from the circuit or county judge from where they last resided to prove "their Attachment to the liberties or Independence of the United States of America, And also of his or their Honesty, Probity and Industry." If approved, immigrants were declared free citizens of the state. This was later changed to require seven years of residency and a special act of the state legislature. In a further sign of trepidation, Georgia law considered any citizen under age 16 who spent three years studying abroad an alien resident upon return to America.

While varying in specifics, colonial policies reflected many common assumptions. Immigrants were expected to swear allegiance to their new home. Usually they were required to disavow previous political attachments. Colonies sometimes required proof of good character, and most held it to be a general qualification. Nearly every colony required a period of residency for citizenship.

The only group that was opposed was made up of convicted felons being transported *en masse* from England. Such malcontents, Rufus King warned from London, could never be useful citizens, as their "principles and habits would be pernicious to the order and industry of our people." The Continental Congress, acting under the Articles of Confederation, recommended local legislation to stem the tide in 1788. Even then the practice continued, leading Franklin to propose that every English ship arriving in an American port be obliged to carry back to Britain at least one felon for every 50 tons of goods delivered. "The felons she planted among us have produced such an amazing increase," he commented in the *Pennsylvania Gazette*, "that we are now enabled to make ample remittance in the same commodity."

Republican Virtues

The lack of a uniform naturalization law was one of the many weaknesses of the Articles of Confederation. James Madison saw to its inclusion in Article I, Section 8, of the new Constitution. While there was no disagreement at the Constitutional Convention about giving this power to Congress, there was a lively and illuminating debate about the eligibility of foreign immigrants for federal office.

A few wanted this element of citizenship to be restricted in the case of immigrants. Elbridge Gerry wanted to restrict membership to those born in the United States, while Gouverneur Morris and Charles Pinckney advocated a qualifying period of at least 14 years before eligibility. George Mason was all for "opening a wide door for emigrants; but did not choose to let foreigners and adventurers make law for and govern us." Indeed, were it not for the many immigrants who had acquired great merit in the Revolution, he, too, would be "for restraining the eligibility into the Senate to natives." It so happens that neither Mason nor Gerry signed the Constitution.

Other, more numerous delegates vigorously attacked this position. Scottish-born James Wilson knew from experience "the discouragement and mortification [immigrants] must feel from the degrading discrimination now proposed." Franklin opposed such illiberality and argued that when a foreigner gives a preference to America "it is a proof of attachment which ought to excite our confidence and affection." Madison wanted to maintain the "character of liberality" of the state governments and "to invite foreigners of merit and republican principles among us," while West Indies-born Hamilton spoke of attracting respectable Europeans who would "be on a level with the First Citizens." Their views prevailed and the Constitution required relatively modest residency periods for immigrant citizens who aspired to the federal legislature: seven years for the House and nine years for the Senate. This was long enough to assure that legislators are "thoroughly weaned from the prepossessions and habits incident to foreign birth and education," Madison later wrote in *The Federalist Papers*. The one explicit limitation of the potential rights of immigrants was that only those who were native born or at least a resident at the time of the adoption of the Constitution could become president of the United States.

WHATEVER CONCERNS THE FOUNDERS HAD WERE NEVER TRANSLATED INTO RESTRICTIONS.

A similar clash occurred in the Congress of 1790. Jackson of Georgia wanted clear barriers against the admission of "the common class of vagrants, paupers and other outcasts of Europe." Stone of Maryland favored residency long enough to assure "first, that he should have an opportunity of knowing the circumstances of our Government, and in consequence thereof, shall have admitted the truth of the principles we hold. Second, that he shall have acquired a taste for this kind of government." Page of Virginia argued that Americans would "be inconsistent with ourselves, if, after boasting of having opened an asylum for the oppressed of all nations, and

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Federalists feared the spread of the radical political ideas that underlay the French Revolution.

established a Government which is the admiration of the world," Congress made the terms of citizenship overly severe. In the end, Congress adopted a mild naturalization law that allowed any person who resided in the United States for two years, proving "good character" and taking an oath to "support the constitution of the United States," to become a citizen.

From that point until 1875, there were no restrictive immigration laws in the United States. Literacy tests were not required until 1917, and there was no quota system for immigration until 1921. Indeed, the only prohibition made during the Founding era became effective January 1, 1808, when, at the first possible moment allowed by the Constitution, Congress outlawed the slave trade. Unfortunately, it would take a war and a constitutional amendment before these subject people would become citizens.

Early Misgivings

The Founders' enthusiasm for immigration, like their optimism for republican government, was tempered by the lessons of experience. We know from *The Federalist Papers* that they were acutely aware of the many problems that faced the "petty republics" of ancient history. One of those problems, it turns out, was immigration and the extension of citizenship. "Among other instances, it is known that hardly anything contributed more to the downfall of Rome than her precipitate communication of the privileges of citizenship to the inhabitants of Italy at large," Hamilton observed in 1802. "And how terribly was Syracuse scourged by perpetual seditions, when, after the overthrow of the tyrants, a great number of foreigners were suddenly admitted to the rights of citizenship?"

Yet whatever concerns they had were never translated into restrictions. The challenge was to correct the faults of earlier regimes and provide a republican remedy to the diseases most incident to republican government. "The bosom of America is open to receive not only the opulent and respectable stranger," Washington wrote in reply to a group of Irish immigrants, "but the oppressed and persecuted of all Nations and Religions; whom we shall welcome to a participation of all our rights and privileges if, by decency and propriety of conduct, they appear to merit the enjoyment."

One problem intrinsic to immigration is that it has the potential of exposing public opinion to foreign influence and allowing the manipulation of American politics. "Foreign influence is truly the Grecian horse to a republic," Hamilton thought. "We cannot be too careful to exclude its entrance." In his Farewell Address, Washington warned that a free people must be "constantly awake" to the wiles of foreign influence. The result of "plunging us into the broils of the European nations," Jefferson

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averred, would be the break up of the Union.

The possibility of foreign influence, and its prevention, dominated foreign policy debates of the 1790s. With the support of both political parties, Congress increased the residency requirement to five years in 1795. Federalists feared the rise of Jacobinism and the spread of the radical political ideas that underlay the French Revolution. Republicans were suspicious of royalist immigrants fleeing the collapse of the *ancien regime*. Three years later, during John Adams's presidency, the publication of the correspondence of the "XYZ" affair led Congress to increase the residency requirement from five to 14 years, a step Hamilton later referred to as "a temporary measure adopted under peculiar circumstances."

In 1798, Congress also passed the infamous Alien and Sedition Acts, which Republicans thought unwarranted and unconstitutional. The less notorious Alien Act, which authorized the president to order out of the United States all alien residents regarded as dangerous to the public peace and safety, or suspected of "treasonable or secret" leanings, expired in 1800 without ever having been enforced. Nevertheless, the Alien Act was not without effect, causing protests among various ethnic groups, especially the Irish. When he was elected president in 1800, due in no small part to the immigrant vote, Jefferson wanted to get rid of the residency requirement. Congress, believing residency was still a key element of citizenship, only lowered the requirement to the previous length of five years.

The Deeper Problem

At root was a greater concern. What Hamilton ultimately feared was not the bribery and direct pressure usually associated with foreign influence, but the possibility of foreign opinions coming "under the patronage of our passions, under the auspices of national prejudice and partiality." The deeper problem, in Hamilton's view, was that by injecting foreign ideas, manners and habits into the public consciousness, immigration would undermine the cohesiveness and sense of community that he believed to be vital to the success of popular government.

> "Not being used to liberty, they know not how to make modest use of it."
>
> —Benjamin Franklin

There were two solutions to this dilemma: restriction or naturalization. Based on their own experience and deep convictions, the Founders chose the latter as more conducive to the liberty of republicanism.

Consider the early German immigrants, who by 1790 made up over 8 percent of the nation's population and were the largest non-English ethnic group in America. In Pennsylvania, Germans comprised a full third of the population. Franklin published the first German newspaper, *Philadelphische Zeitung*, in 1732. By 1753, when Franklin wrote about the community, there were numerous German newspapers and printing houses. Advertisements and street signs were printed in both English and German. Interpreters were needed to translate German legal documents allowed in colonial courts, and Franklin worried that soon they would be required in the Assembly "to tell one half of the legislators what the other half say." Eventually, Franklin feared, there would be so many Germans that "all the advantages we have will, in my opinion, be not able to preserve our language, and even our government will become precarious."

> While the widespread adoption of the English language undoubtedly had much to do with the assimilation of the early generation of immigrants, it is insufficient to explain the development of an independent American nationality.

Yet this did not happen. While there were a few attempts to gain official status for the German language in Pennsylvania schools and courts, as when the new state constitution was debated in 1837, none was successful. German-speaking immigrants eventually accommodated themselves to their new language. Although later immigration waves established their own ethnic communities, immigrant groups steadily lost their distinctiveness and coherence. Especially with the rise of the public school system in the 1820s and 1830s, the initial linguistic and nationalistic immigrant ties were broken down.

A Settlement Strategy

While the widespread adoption of the English language undoubtedly had much to do with the assimilation of the early generation of immigrants, it is insufficient to explain the development of an independent American nationality. Franklin, for instance, did not advocate the restriction of immigration or the criminalization of foreign languages, but rather the diffusion of the immigrants among the many colonies. "All that seems to me necessary is to distribute them more equally, mix them with the English, establish English schools where they are now too thick settled." He was by no means against the admission of Germans to the United States, but was concerned about their assimilation. "Not being used to liberty, they know not how to make modest use of it." What made this difficult was that the language difference made it "almost impossible to remove any prejudices they may entertain." The challenge was not language *per se* but the larger work of citizen-building. English immigrants, as Jefferson was wont to point out, shared much more in

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common with the Americans than language. Except for their monarchical heritage, they differed little from the existing population, and on this point they were already "sufficiently disposed to adopt ours." At the same time, non-English immigrants—like the Germans, French, and Dutch—did not share the same heritage or traditions with the English, or even with each other. This fact made it more difficult for these immigrants to acquire American dispositions and a familiarity with American political institutions.

DIVERSITY WOULD NOT ASSURE THE DEGREE OF UNITY THAT WOULD MAKE THE ASSIMILATION PROCESS COMPLETE, THAT WOULD MAKE "E PLURIBUS UNUM."

Even worse, these immigrants tended to settle together in large groups, preserving for some time their own attachments, rather than mixing with the rest of the population. Jefferson thought, "they should distribute themselves sparsely among the natives for quicker amalgamation." Washington also supported the idea of immigrant diversity; by settling in groups immigrants would "retain the language, habits and principles (good or bad) which they bring with them. Whereas by an intermixture with our people, they, or their descendants, get assimilated to our customs, measures and laws: in a word, soon become one people." There was no preference or disdain for one people over another, however, and the Founders applied their fear of foreign concentration to English as well as non-English immigrants. Nor was there any attempt to preserve the leading ethnicity of the population. In 1785, for instance, even though the organized settlement of English immigrants in the western territories would form a buffer between the Indians and the established population, Washington objected on the grounds that they "may bring with them strong prejudices against us, and our form of government, and equally strong attachments to the country and constitution they leave, without the means, being detached and unmixed with citizens of different sentiments, of having them eradicated."

Citizen Building

Yet the simple blending of the immigrant population was not sufficient. Jefferson expressed this point in his *Notes on the State of Virginia*. On the one hand, his love of liberty urged him to welcome the victims of tyranny. On the other, he was concerned about the effects of immigration on republican government. Jefferson worried that by granting asylum to foreigners the new nation would expose itself to the corrupting influences of Europe. Even if immigrants could rid themselves of the yoke of despotism they had "imbibed in their early youth," they would do so only "in exchange for an unbounded licentiousness, passing, as is usual, from one extreme to another." They would pass these principles on to their children and, in proportion to their numbers, influence American politics. The result to the body politic would be to "infuse into it their spirit, warp and bias its direction, and render it a heterogeneous, incoherent, distracted mass."

Jefferson's political arch-rival, Federalist party chief Hamilton, held similar opinions. "The safety of a republic depends essentially on the energy of a common national sentiment; on a uniformity of principles and habits; on the exemption of the citizens from foreign bias, and prejudice; and on that love of country which will almost invariably be found to be closely connected with birth, education, and family," Hamilton wrote in 1802. Even if immigrants came to America because of a preference for free government, Hamilton asked, "how extremely unlikely is it that they will bring with them that temperate love of liberty, so essential to real republicanism?"

While recognizing the inevitable—and desirable—diversity of opinion that would result from immigration, the Founders understood that there needed to be a certain uniformity of opinion about America and the fundamental principles of the Revolution. As Hamilton put it, immigration policy should strive "to enable aliens to get rid of foreign and acquire American attachments; to learn the principles and imbibe the spirit of our government; and to admit of a philosophy at least, of their feeling a real interest in our affairs." Diversity would not assure the degree of unity that would make the assimilation process complete, that would make *e pluribus unum*. The only solution to the problem would be for immigrants to acquire for themselves the qualities and sentiments essential to republicanism, making them into enlightened friends of liberty, partisans in a common cause. The sum of this sentiment is the purpose of citizenship.

WHAT MOLDED ALL THESE DISPARATE GROUPS, IMMIGRANT AND NATIVE-BORN ALIKE, INTO ONE PEOPLE WAS A COMMON IDEA OF CITIZENSHIP.

The American Character

This transformation would occur on two levels, one structural and the other political. In the first place, the constitutional structure of the new nation allowed for its increased size, thereby assuring a greater variety of interests among its people. Not only would this help prevent domestic faction and insurrection, but it would also guarantee that immigrants were spread far and wide across the vast country, making their impact less visible and their assimilation more likely.

More importantly, immigrants would learn from their

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new neighbors, friends and countrymen what it is to be American. Through the habituation and practice of American ways and customs, acquiring the virtues, manners and spirit of Americans, immigrants would soon reflect an *American* character.

That character was still evolving in colonial America, of course, but after the Revolution it already possessed certain discernible traits, including: a love of personal freedom, tempered by a deep respect for public justice and private morality; an attachment to republican principles of governance and the rule of law; and a healthy patriotism, grounded not in obedience to a monarchy, but in dedication to the common cause of self-government.

In the second place, immigrants would be given an education in the political structure and institutions of the United States. This would occur most notably through public education, as in Pennsylvania, where Franklin opened the first nondenominational public academy in 1751 and the state constitution of 1776 called for the establishment of public schools in every county. It also would take place as immigrants observed and then participated in American politics, realizing their equality before the law and seeing their consent translated into the policies of the nation. Indeed, the general diffusion of knowledge, President Washington noted in his first Annual Message, would allow all citizens "to know and value their rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burthens proceeding from a disregard for convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness—cherishing the first, avoiding the last; and uniting a speedy but temperate vigilance against encroachments, with an inviolable respect for the laws."

America has always been a home for the world's "huddled masses, yearning to breathe free." What molded all these disparate groups, immigrant and native-born alike, into one people was a common idea of citizenship. Immigrants became more than mere inhabitants living in isolated communities. Immigrants were not Italian-Americans, or Polish-Americans, or Filipino-Americans, or any other kind of hyphenated Americans. They were *Americans*, who drew their primary national identity from the United States, even if they retained an attachment to their ancestors' language and culture. They became citizens in the fullest sense of the term, owing their allegiance to their new homeland, deserving its protection, sharing in the political rights of its people, entitled to the privileges and opportunities of free government.

In the midst of the current debate over immigration, America must not forget that citizenship is the sustaining spirit of free government. It is what makes us friends and fellow countrymen. In the end it is the only formula that will prevent the American melting pot from becoming a boiling cauldron of multiculturalism.

Reuters/Bettmann

Americans torn by conflicting impulses on the question of immigration may find it helpful to consult the thoughts of the Founding Fathers.

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Wizards of Ooze

Lawyers Shouldn't Be the Only Ones Cleaning Up Under Superfund

James M. Strock

> This is the Court of Chancery; which has its decaying houses and its blighted lands in every shire; which has its worn-out lunatic in every madhouse, and its dead in every churchyard; which has its ruined suitor, with his slipshod heels and threadbare dress, borrowing and begging through the round of every man's acquaintance; which gives to monied might, the means abundantly of wearying out the right; which so exhausts finances, patience, courage, hope; so overthrows the brain and breaks the heart; that there is not an honorable man among its practitioners who would not give—who does not often give—the warning, "Suffer any wrong that can be done you, rather than come here!"

Charles Dickens wrote these words 142 years ago in his novel *Bleak House*, but he could easily have been describing the legal quagmire known as Superfund. The Comprehensive Environmental Response, Compensation and Liability Act, signed by Jimmy Carter in 1980, was intended to be a temporary program. It was supposed to ensure the rapid cleanup of what has been elegantly called the *detritus* of the Industrial Revolution: the many sites where hazardous wastes were left buried in the ground, leaching into groundwater, threatening homes and neighborhoods.

Instead, Superfund has become the environmental equivalent of the Defense Department's $600 toilet seat. Environmentalists have an enormous stake in making certain Superfund is reformed thoroughly and quickly, for if the American people begin to regard it as a "typical" environmental program, public support for environmental protection could erode precipitously.

Toxic Liabilities

Superfund has failed in its mission of cleaning up hazardous waste sites across the nation. After more than a dozen years and nearly $30 billion dollars ($12 billion in federal appropriations, $7 billion collected from parties, and $10 billion in litigation expenses), the Environmental Protection Agency (EPA) concedes that cleanup has been completed at fewer than 200 of the 2,000 sites that pose the greatest threat to public health. But this failure is not the result of idleness; Superfund has been a bonanza for lawyers and consultants. A recent Rand Corporation report found that at studied sites nearly one-third of the money spent has gone to "transaction costs" rather than to cleanup itself. Nor is there any end in sight. Its ultimate costs are now credibly projected from $100 billion to $700 billion.

In my own state of California, we see monuments to Superfund all around us. Public officials in Oakland have complained to me that fear of toxic liability is holding up redevelopment of that city's downtown. Under Superfund rules, the purchaser of a property is liable for cleanup costs of any hazardous wastes that may be found there. The result is to sharply discourage investment in industrial inner cities; business executives tell me it is much less risky to develop property in pristine exurban areas that have not yet been industrialized. This incentive system makes no environmental sense whatsoever.

After over a decade of delay, cleanup is only now beginning at the McColl site in Fullerton. During the early and mid-1940's, various refinery wastes including acidic sludge from aviation fuel for the World War II effort were disposed into pits or sumps. A lifetime later, toxic black waste continues to ooze into a residential neighborhood, rejected by the earth. Why the slowdown? Because Superfund's application of liability to a small number of companies with "deep pockets" is an open invitation to time-consuming litigation. In the McColl case, the Environmental Protection Agency tried to make a small number of parties liable for a cleanup that will cost $80 to $100 million. The idea was that those defendants would in turn sue other parties—including the U.S. government—for their share of the cleanup costs. But cleanup was continually put off, as various defendants wrangled in court over how much they would pay.

After the expenditure of nearly $21 million, the site is essentially unchanged since 1983. It is marked by a clay cap, a fence (which lawyers call an "institutional control") and one of the largest libraries of technical and legal documents ever compiled at a hazardous waste site.

James M. Strock, *California Secretary for Environmental Protection, was formerly the chief law enforcement officer of the U.S. Environmental Protection Agency.*

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Superfund has been a similar disservice to Californians who live near the San Gabriel Basin, a polluted groundwater aquifer that underlies 176 square miles of Los Angeles' densely populated San Gabriel Valley. In this case, there are so many hundreds of liable parties, and cleanup expenses are so high, that the cumbersome Superfund process has proved completely unworkable. The state government of California is now moving independently to clean up the aquifer, acknowledging that it could take well into the next century for Superfund to prompt any action.

To speed cleanup, the state of California is now asking that EPA avoid listing certain sites on its Superfund priority list. An example is Mare Island Naval Station, which is scheduled for closure in 1996. Like many military bases closing across the nation, Mare Island has a problem with hazardous wastes, such as landfills in closure, PCB spill areas and on-site groundwater contamination. Cal/EPA has determined that the best way to convert the naval base to an economic use is by circumventing the Superfund process.

Trial Balloons

President Clinton seems aware of the problem. He said in his first State of the Union address, "I'd like to use that Superfund to clean up pollution for a change and not just pay lawyers." But, thus far, his aides are not taking the actions required to meet his goal.

Mr. Clinton's EPA administrator, Carol Browner, impanelled a group to study Superfund, but then declared that the program's liability standard should not be re-examined. This approach has resulted in subsequent trial-balloon launchings from EPA, such as suggestions that company executives, rather than their lawyers, meet with EPA to settle their cases. The premise is that the Superfund law itself is sound; problems have occurred because of the way the law has been enforced.

The position taken by the Clinton administration in 1993 was defensible in 1986. At that time, when Superfund was being reconsidered by Congress, supporters could credibly argue that the law had not been fully enforced. In 1989, however, the Bush administration performed a thorough management review, and then enforced the law vigorously—obtaining well over a billion dollars in legal settlements in each subsequent year. At this point, it won't do to re-name the program, or change the management and hope for the best. The program is the problem.

THE SUPERFUND LIABILITY STANDARD IS UNIQUE IN AMERICAN LAW.

If President Clinton wants to spend Superfund money on cleanup rather than lawyers, he will have to press for reform of its liability standards. Under the current system, too many individuals and businesses are potentially liable. And their actual, potential, and contingent liabilities are so staggering as to give defendants a powerful incentive to spend money on legal bills rather than incur the even higher costs of cleanup.

CA. EPA

A lifetime later, toxic black waste continues to ooze into a residential neighborhood, rejected by the earth.

Practical Dysfunction

The Superfund liability standard is unique in American law; it is necessary to understand its technical details to see why the law is faltering. In legal argot, liability under Superfund is strict, joint and several, and retroactive.

Strict liability means that a person is liable for damages without respect to whether he or she was at fault. This is a conventional and established standard in dealing with hazardous materials or activities.

Joint and several means that where legal liability was created by more than one party, and it is difficult to apportion responsibility, then any party that had a hand in creating the problem may be liable for the entire remedy. In turn, that party may choose to sue others and litigate against them to assure that their contribution is paid. This, too, is a traditional standard.

So far so good. By all accounts, the *prospective* application of strict, joint and several liability has worked well in the area of toxic wastes. Companies and individuals are limiting the amount of hazardous substances they use and produce, improving environmental and occupational safety, and developing manufacturing processes that turn what was once waste into an economic resource.

The Superfund nightmare begins with *retroactive* liability, which means that individuals or companies are held liable for activity that was legal, or at least not illegal, at the time it occurred. Under Superfund, for example, past waste disposal undertaken in compliance with then-existing statutes would not shield a party from liability. Retroactive liability is constitutionally barred from criminal law, and it has been only rarely used in civil law. In the Superfund context, such liability is viewed by many poten-

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New Jersey Newsphotos

Municipalities may be liable for arranging for the transportation of hazardous wastes, even when they did not generate or transport the waste—and even if the municipality was required by law to dispose of the waste.

tially liable parties as outrageously unfair, particularly since, combined with the other features, it can make them liable for an entire cleanup.

Retroactive liability cannot change what has already occurred, or what is occurring now. It has no beneficial effects on behavior. But, when connected to the already broad Superfund liability net, it can certainly have immense economic consequences—and unintended environmental consequences.

Professor Alfred Light of St. Thomas University Law School has written an excellent treatise showing how Superfund's liability scheme has moved from theoretical clarity to practical dysfunction. People who have owned a piece of property for a brief time in the distant past may be liable, because of actions they or their predecessors took. An owner who did not add to the contamination but held title while previously deposited material "reposed" in the environment may be liable. Municipalities may be liable for arranging for the transportation of hazardous wastes, even when they did not generate or transport the waste, and even if the municipality was required by law to dispose of the waste. Those who sell scrap metal to recyclers may become liable for spills at the recycler's plant, if the sellers knew that the recycling process would include spillage.

The insurance industry has been hit with immense liabilities and huge litigation costs. Almost every old-time manufacturing business—shoemaking, printing, paints, auto parts, construction materials, aviation—and even more modern industries, such as computer-chip production, face huge potential liabilities for toxic waste. Small businesses, many of which have only recently been regulated, such as dry cleaners, can watch their lines of credit vaporize overnight if they become potentially liable in a major suit, since the natural risk-aversion of lenders leads them to avoid financing where there is any hint of toxic liability.

Once imposed, the liability for cleanup of a waste site is open-ended. Today, cleanup typically costs more than $30 million per site. But even such a huge outlay does not prevent future liability if a remedy fails—as happened in Pennsylvania some years ago where a waste containment facility burst—or is judged in the future to be inadequate. Contingent liabilities are immense, and will become increasingly important as federal corporate accounting and reporting requirements are updated and strengthened.

Common Sense Reform

One of the reasons Superfund has been oddly impervious to reform is that the law is so complicated that many assume its reform would be equally so. In fact, there are a number of common sense actions that could be taken now to reform the program, and to begin the overdue process of taking the lawyers out of the law.

Repeal retroactive liability. For hazardous substances improperly handled after initial passage of Superfund in

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1980, the current liability system should remain in place, in full force. The law is a positive force for changing behavior toward toxic exposure and contamination. But for actions taken before the law was passed, liability should be modified. Congress should calculate the cost of the cleanup, and allocate it among those who benefit from it—whether all of us, or specific sectors of industry—through a full legislative debate. Such an initiative would remove the sense of unfairness that motivates some to fight these cases without surcease.

Differentiate between those who pollute and those who are trying to clean up the mess: Winston Churchill once clarified a contested issue by explaining that while he may not have known everything, he certainly knew the difference between the fire brigade and the fire. Somehow that distinction has been lost in Superfund. The Superfund liability system, intended to reach the malefactors, also touches virtually anyone making an operational decision relating to a cleanup.

Cleanup contractors who are obeying the law should not face the same liability as the polluters who caused the problem in the first place. Where remedial action is taken in accordance with government mandate, the innocent should not have to fear being swept into the same liability dragnet as the initial polluters.

Create insurance mechanisms to terminate cleanup liability. At the time that every required remedial effort has been made to the satisfaction of the government, liability should cease. For remedies which are insufficient, but where there is not evidence of negligence or fraud,

AT THIS POINT, IT WON'T DO TO RE-NAME THE PROGRAM, OR CHANGE THE MANAGEMENT AND HOPE FOR THE BEST. THE PROGRAM IS THE PROBLEM.

funding could be provided through a generic insurance mechanism. This would remove another part of the fire brigade-fire confusion.

Delegate the program to the states. The fact that Superfund discourages urban redevelopment in older areas—and subsidizes development of heretofore "green" areas—would move states rapidly into action if they were made accountable. If states are granted the lead, they will approach the issue as one of land use bounded by public health considerations. This is important because contamination of inactive waste sites, as opposed to "active" ones, tends to receive a relatively low priority when presented primarily as a public health issue.

States generally would welcome the challenge of taking the program over if they are assured that funding will be included, as well as a carefully limited role for the federal bureaucracy. Otherwise, the transfer would be rejected as a poisoned chalice.

Make cleanup of federal facilities a model for private sector. New cleanup technologies should be demonstrated on closed military bases and other federal facilities, then certified for broader application in similar

ONCE IMPOSED, THE LIABILITY FOR CLEANUP OF A WASTE SITE IS OPEN-ENDED. TODAY, CLEANUP TYPICALLY COSTS MORE THAN $30 MILLION.

private situations. The federal government should adopt a program like that recently approved by Governor Wilson, which allows Cal/EPA to certify new cleanup technologies. This will also provide new economic opportunities for environmentally protective products.

Establish an environmental regulatory budget: The costs, and benefits, of America's national environmental and health programs are often dramatically understated, because they are presented as traditional budgetary measures. EPA's annual budget, for example, is approximately $7 billion; the cost imposed on those complying with U.S. environmental laws is perhaps $130 billion annually. A regulatory budget, reflecting full costs and benefits—with line-items reflecting transaction costs, actual cleanup, etc.—should be submitted to and debated by Congress. The current debate over actual government spending is crabbed, misleading, and limits public accountability for all environmental programs including Superfund.

No Good Answer

The Superfund law, in its current form, poses a grave threat to American environmental law as a whole. The fact is that of all the areas of domestic federal governmental activity of the past generation—crime prevention, the "war on drugs," education, labor, social welfare, and housing—environmental protection stands alone as an area of dramatic and undeniable achievement.

But the day is coming when Americans will ask why so much money has gone to pay for lawsuits under Superfund, rather than, say, prenatal care. At present, there is no good answer, and some may conclude, wrongly if not tragically, that the same is true for the entire enterprise of environmental protection. All of us committed to the environment should act now to fix the roof while the sun is shining.

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Owe, Susannah

How Much the National Debt Will Make You Cry

Paul S. Hewitt

Two monster tax increases in 1990 and 1993 were imposed on American families in the name of deficit reduction. The medicine didn't work.

America's national debt is still spiralling out of control. At the beginning of fiscal 1994, the gross national debt stood at $4.4 trillion, with projections that it will grow by another $311 billion this year. Net national debt—taking out money the federal government owes to itself, such as the Social Security trust fund—stands at $3.3 trillion.

Congress, whose most important responsibility is to control taxing and spending, isn't even close to controlling the federal government's structural deficits. The projected deficit for FY 1994 is $253 billion, rising to $359 billion for FY 2000. That's not even counting the additional budgetary costs of the Clinton health plan, which economists such as Martin Feldstein of Harvard University have estimated could increase deficits by as much as $120 billion a year.

CASH YOU COULD HAVE USED

What does this mean for you? Last year the average American household paid $1,700 in taxes to finance interest on the national debt—another $450 was financed by borrowing. It was money you needed. A 25-year-old who saves $1,700 every year, earning 6 percent interest, can amass savings of over $263,000 by age 65. Alternatively, you might have used this cash for Christmas gifts, charitable donations, or to help with your college bills. It is the vacation you wanted to take, the boat you wanted to buy, the suits you wanted to replace but couldn't.

These subtractions from your paycheck are going to get larger. Net interest on the national debt amounted to $198 billion last year, making it the third largest program in the budget—after Social Security and defense. This is more than the combined budgets of the Departments of Commerce, Education, Labor, State, and Transportation, plus NASA and the Environmental Protection Agency. Interest costs are expected to grow 65 percent over the next 10 years, again not counting the Clinton health plan. Unless you expect your income to rise by more than 65 percent over the same period, you will have to pay a higher proportion of your earnings to finance Washington's debt binge.

But you're caught in a Catch-22, because skyrocketing deficits make it harder to finance the investment we need to raise long-term living standards. Federal borrowing as a share of net private savings soared from a mere one percent in the early 1960s to a whopping 71 percent during 1991-92. As a result, America has the lowest savings rate in the industrialized world and depends on foreign savers for its net investment. That may have been all right in the 1980s when Japanese and German pension funds had surplus cash to invest here. But those days are over; where are we going to get capital now?

$900 BILLION MORE

President Clinton and the media like to blame our debt problems on the Reagan and Bush administrations. The national debt did grow by $2.6 trillion from 1981 through 1993—a threefold expansion over the $709 billion accumulated in the country's first 201 years. Half of the debt before 1980 was incurred to fight World War II, and about a third of the new debt in the Reagan-Bush years financed the military buildup that won the Cold War. The remaining new debt would have been lower if most of President Reagan's proposed domestic spending cuts hadn't been pronounced "dead on arrival" in the Congress. Whatever the reasons, each household's share of the national debt has grown by $28,500 since 1980, each individual's by $10,400.

Meanwhile, over the next five years, the Clinton administration plans to increase the national debt by another $1.12 trillion—or about $12,100 per household. Again that's not counting the cost of the health plan. It also assumes that long-term interest rates stay low. Should interest rates return to the levels just five years ago—a possible response to simultaneous economic recoveries in Japan and Western Europe, or simply a resurgence of inflation—annual debt service costs could rise by another $70 billion, or $760 per household.

There is one overriding reason for the explosion of the national debt, and that is the skyrocketing of payments for the elderly. Over the next decade, the Congressional Budget Office (CBO) forecasts that annual federal spending will grow by roughly $900 billion. This will require an

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additional $8,700 in tax revenues and deficit spending per household by year 2003. Ninety-two percent of this growth is accounted for by entitlement programs and interest payments on the publicly held debt. Social Security, Medicare, Medicaid payments to the elderly, and federal pensions account for 60 percent.

Indeed, because most federal social spending is on retirees, pressure on taxes and deficits is tied closely to the number of Americans in old age. The elderly population will explode when the enormous baby boom cohort reaches the age of entitlement in 2007. That's when the real debt crisis begins.

During the second decade of the next century, spending on the elderly under current law is projected to grow by $150 billion to $200 billion per year in 1992 dollars. By 2030, according to government estimates by the trustees of the Social Security and Medicare systems, the combined cost of Social Security and Medicare (Parts A and B), will equal 48 percent of payroll, assuming output per worker grows as fast as it did in the 1980s.

Congress, meanwhile, is doing virtually nothing to address the problem. The National Taxpayers Union Foundation's (NTUF) Congressional Budget Tracking System Survey found that just two out of the 332 bills introduced in the last Congress to cut spending (compared with 1,594 that sought to increase spending) would have trimmed old-age benefits. These bills, drafted by former congressman Leon Panetta, a Democrat who is now the director of the Office of Management and Budget, and Republican Senator Hank Brown (R-CO), drew only a few cosponsors—mostly moderate Democrats. Neither actually specified how to cut Social Security, Medicare, or federal pensions. Instead, both measures sought to "cap" programs elliptically referred to as "entitlements" or "mandatory spending." How they would have worked is anyone's guess.

Kasich-Penny Pinching

In the current Congress the outlook for spending reform is brighter, though not much. Of the 271 spending reduction bills introduced in the first session of the current Congress, four now seek to trim entitlements. Meanwhile, proposed cuts in both entitlements and discretionary spending were combined in a late-session bipartisan amendment by Representatives John Kasich (R-OH) and Tim Penny (D-MN), which would have reduced cumulative deficits over the next five years by 9 percent. That this important measure failed by just eight votes, despite strong opposition from the White House, Democratic leadership, and senior citizen lobbies (based, revealingly, on the claim that deficits are needed to fund health benefits), could be taken as a sign that Congress is getting serious about deficit reduction. Still, it was just a first step, and Congress refused to take it.

In the early 1980s conservatives argued that we could grow our way out of the deficit—or, technically speaking, that deficit-funded tax cuts would cause revenues to grow faster than the ensuing rise in debt service costs. As far as it went, the argument had merit. However, it depended implicitly on the administration's ability to hold down spending, which never happened. Despite repeated attempts under President Reagan to stem the growth of

Photofest

Last year the average American household paid $1,700 in taxes to finance interest on the national debt. You might have used this cash to help with college bills.

Social Security, Medicare, Medicaid, and federal pension outlays, the Republicans were singularly unsuccessful in their efforts to restrain entitlement growth. Under George Bush, they all but gave up.

Now a bipartisan consensus may be beginning to emerge. To cite one example: Democrat Bill Bradley and Republican Alan Simpson, joined by seven other Senators of both parties, have asked the Congressional Budget Office to investigate potential savings from the means-testing of entitlements benefits.

There is mounting evidence that the public will support politicians with the courage to lead us into entitlement reforms. NTUF's July 1993 *Survey of Retirement Confidence* found that 62 percent of Americans over age 25 would rather see cuts in Social Security and Medicare than yet another tax increase. Fully 70 percent supported "reducing Social Security and Medicare benefits to high income recipients," an increase of 7 percentage points over the year before. Eighty-one percent of Americans ages 26 to 44 express little or no confidence that Social Security and Medicare promises will be honored, three times more than among Americans 55 and over.

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Photofest

There is one overriding reason for the explosion of the national debt: the skyrocketing payments for the elderly.

One potential reform is to couple means-testing of Social Security and Medicare benefits, with deep new tax incentives for personal retirement saving. A recent CBO study suggests that as much as $150 billion in entitlements benefits went last year to households with incomes over $50,000. Reductions in this subsidy could greatly relieve pressure on federal spending while increasing the incentive to save and invest. Such a policy has several advantages. It would raise the anemic national savings rate and foster growth. It would address the anxieties of the middle-aging cohorts who will soon dominate the electorate. It would reinforce the basic truth of capitalism—that those who can do for themselves, should. And finally, it would retard the growth of spending, at last enabling America to outgrow its oppressive interest burden.

Every dollar of federal spending now adds 21 cents to the net national debt. Thus, in FY 1993, Social Security added $57 billion to the national debt; defense, $55 billion; Medicare, $27 billion; Medicaid, $14 billion; and all domestic discretionary spending combined, $43 billion. If you are a beneficiary of a federal program—whether it be a Social Security check or cotton support payments or student loans—you should be aware that you are adding more than one dollar to the national debt for every five dollars you receive.

Future retirees should also be aware of the precariousness of Social Security. More than $1 trillion (a quarter of the $4.3 trillion gross national debt) is owed by the Treasury's General Fund to the many trust funds that populate the government's books—among them: Social Security, with $366 billion in reserves; Civil Service Retirement, $319 billion; Medicare, $149 billion; and Highway, $22 billion. These assets are no more than bookkeeping entries; they consist of I.O.U.'s from the Treasury. A series of court decisions dating back to 1937 have established that the Treasury's debts to the trust funds need not be honored. Congress can liquidate the assets of a trust fund, and any obligation to dispense funds from them, at its discretion. Once future retirees realize this, there will be growing political support for smaller retirement benefits in exchange for greater retirement security.

Cutting spending is in vogue these days, and it is important to seize every opportunity to abolish the many unnecessary discretionary programs that populate the budget, from tea tasting to helium reserves. But together, these programs do not add up to much nor are they the cause of the explosive growth in national debt.

Only through reform of entitlements can Americans rebuild their communities on the twin pillars of thrift and enterprise, communities where citizens are self-reliant and secure in their retirement expectations, where assembly lines for products invented here never go elsewhere for want of investment capital, and where interest on the debt grows more slowly than the economy, revenues, and personal income. The sooner we reform entitlements spending, the better for us all. ☎

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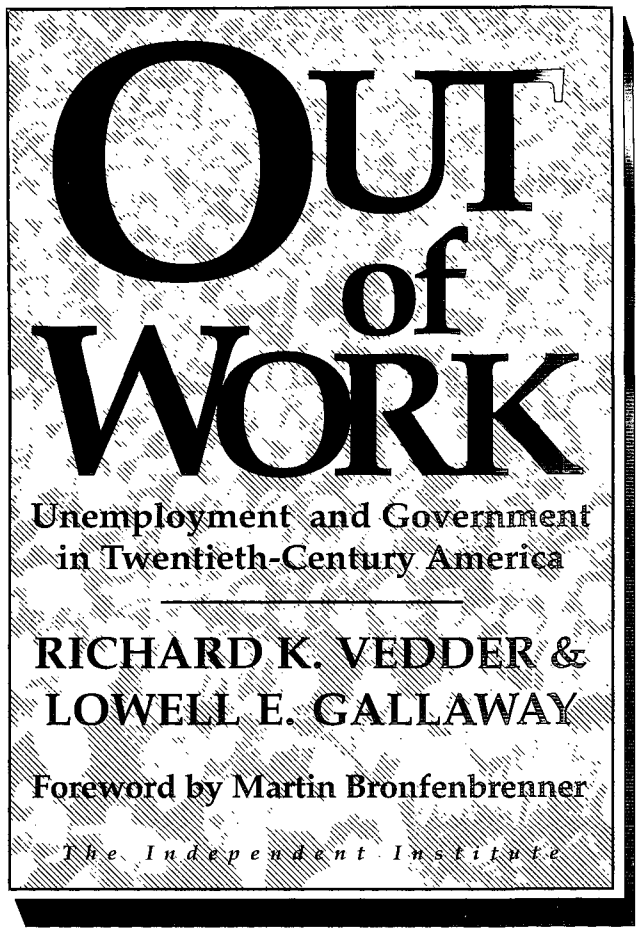
"The most comprehensive book ever on unemployment in the United States." — GEORGE GILDER


OUT of WORK
Unemployment and Government in Twentieth-Century America
RICHARD K. VEDDER & LOWELL E. GALLAWAY
Foreword by Martin Bronfenbrenner
The Independent Institute

Unemployment is used to justify ever bigger government programs — from continuing high military expenditures to a return to New Deal-type make-work agencies. Now, *Out of Work* presents the devastating case that the major cause of high unemployment, both cyclical and secular, is government itself.

Out of Work challenges Keynesian fiscal demand-management, and then shows that such policies as minimum wages, labor controls, civil rights legislation, unemployment compensation, and welfare have all played significant roles in generating joblessness. Too, *Out of Work* lucidly and absorbingly recounts the history of American unemployment. It demonstrates, for example, that the policies of both presidents Herbert Hoover and Franklin Roosevelt not only prolonged and exacerbated the unemployment of the Great Depression, but directly contributed to the depression's banking crisis as well.

Out of Work shows how real economic growth can be produced and how one of the most explosive issues of the 20th century can finally be ended.

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Veil of Tears

The Church is Part of Our Divorce Problem—and Solution

Michael J. McManus

The breakup of the American family—six out of 10 marriages now end in separation or divorce—finally seems to be causing alarm among nearly all sectors of society. Barbara Dafoe Whitehead's recent article in the *Atlantic* affirms that the dissolution of two-parent families "dramatically undermines our society." William Bennett, senior fellow of cultural studies at The Heritage Foundation, has documented profound social regression over the last generation: divorces have tripled; teen suicide rates have tripled; illegitimacy quadrupled; child abuse has jumped five-fold; violent crime soared seven-fold.

However, the family-values debate has been sterile because both liberals and conservatives point almost exclusively to the federal government to help strengthen families—in the form of tax deductions, better child-support enforcement, and Head Start programs for preschoolers. But the central reason for the dissolution of two-parent families is that couples no longer marry for life, and the federal government can do nothing to strengthen marriage commitment. Historically, that has been the job of organized religion, and it is doing a poor job indeed.

Blessing Machine

Indeed, the church is part of America's divorce problem. Three-fourths of all first marriages are blessed by pastors, priests, or rabbis. Yet, according to a recent University of Wisconsin study measuring divorce and separation, 60 percent of new marriages are failing. Clearly, organized religion has access to most young couples, but it acts as a "blessing machine" that has no more impact on those getting married than a Justice of the Peace. Too many churches have simply become "wedding factories" with a rented chapel, a hired pastor, and an organist. Most churches prepare couples for elaborate weddings—costing $16,000 on average in 1992—not for life-long marriages.

On the other hand, the very access most churches have to most marriages is also a source of hope. Some churches really are doing an outstanding job of preparing couples for marriage or of sustaining existing marriages. They are the exception, however, and the complicity of organized religion in family breakup first must be understood.

The failure of organized religion has occurred on moral and practical levels—both in terms of church teaching on sex and sexuality and in real-life preparation for marriage and support for existing marriages.

On a range of sexual issues, too many churches have succumbed to the modern ethos of free-wheeling, individualistic sexual expression—almost anything goes. Despite the official teaching from Rome, for example, only a third of all Catholics believe premarital sex is wrong; a full 58 percent consider it harmless. Mainline Protestants also closely mirror society's sexual mores. Among Lutherans, for example, only 38 percent consider premarital sex harmful, while 55 percent condone it. Even the country's largest conservative Protestant denomination—the Southern Baptists—disapproves of premarital sex by only a slim majority, 53 percent.

Chastity Pays Dividends

Attitudes like these among the church-going make defending the case for chastity sound pretty quaint. But with over 1 million teenagers getting pregnant each year, it is clear that our children are not learning the discipline needed for life-long commitment. Moreover, there is clear sociological evidence that chastity pays dividends toward a lasting marriage: A study by the National Center for Health Statistics and the University of Maryland showed that those who are sexually active before marriage are 71 percent more likely to divorce than those who are virgins on their wedding night.

The religious community is equally, if not more ambivalent about unmarried couples who are living under the same roof. Catholic priests tend to sidestep the issue in premarital counseling sessions, as does much of the Protestant community. Last fall, two major denominations, the Evangelical Lutheran Church of America and the Episcopal Church, issued draft reports accepting unmarried couples living together. After discussions of sexual issues in hundreds of churches, the Episcopal Church surveyed more than 18,000 members. Three-fourths responded that "one can be faithful and live with someone of the opposite sex without marriage." I recently

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asked the pastors of 16 denominations in four southern cities if any of them had ever preached a sermon on cohabitation. Only one pastor out of 158 raised his hand.

The Cancer of Trial Marriages

And yet these "trial marriages"—now preceding a majority of marriages in America—are a cancer on the family in several ways. First, such marriages are 50 percent more likely to be disrupted by separation or divorce than marriages without premarital cohabitation, according to a 1989 study by the University of Wisconsin. In fact, of 100 couples who begin a trial marriage, there will be only 15 lasting marriages: 40 break up before marriage; of the 60 who marry, there will be at least 45 divorces—a 75 percent divorce rate. Moreover, the Justice Department reports that women who live with their boyfriends are at least 60 times more likely to be assaulted than married women. The message: Men respect wives—not live-in girlfriends.

The second effect of trial marriages is that fewer people are getting married at all. In 1992, there were 42 million adults who had never married—twice the 21 million of 1970. The percentage of women ages 35 to 39 who have never married has jumped from 5.4 percent in 1970 to 12.6 percent in 1992; for men, the percent soared from 7.2 percent to 18.4 percent. Why? Cohabitation, which has increased six-fold since then, has become a marriage substitute for millions. People live with partner A, then partner B, and then C, often leaving behind a trail of emotional wreckage.

Who pays the biggest price for the failure of people to make or keep marital commitments? The innocent—the children. Nearly one million children are born out of wedlock each year. Another million watch their parents walk away from each other in divorce, and the long-term impact on their lives is hard to exaggerate. The groundbreaking book, *Second Chances: Men, Women and Children a Decade After Divorce,* by Judith Wallerstein and Sandra Blakeslee, has removed any doubt about the harmful effects of divorce on children. Other studies show that compared with children in two-parent families, kids in single-parent homes are two to three times as likely to have emotional and behavioral problems; they're much more likely to drop out of high school, to get pregnant as teenagers, and to abuse drugs.

As a result, fractured families are becoming the norm in many congregations. A look at the study material developed over the last decade for evangelical church discussion groups tells the story: books on divorce, co-dependency, growing up in single-parent homes, and other problems. Ironically, churches would not have to devote nearly as much time and resources to rebuilding broken families if they paid more attention to couples before and during the early stages of marriage.

What To Do Before 'I Do'

In fact, the point at which churches normally have the greatest leverage with couples is when they ask to be married. Some 73 percent of those who marry do so in church, yet too few churches take the task of premarital counseling seriously. This is the practical side of the religious community's failure in its responsibility to help

Archive Photos

Too many churches have become "wedding factories," preparing couples for elaborate weddings, but not for life-long marriages.

ensure strong marriages: Gallup reports that fewer than one fifth of all marriages were preceded by any premarital counseling. And what was given was largely ineffectual—divorced couples and those who are still together are equally likely (15 and 18 percent, respectively) to have had counseling.

It's as though the religious community is nearly as skeptical of marriage as the surrounding culture. How else can we explain the fact that national religious conventions—Catholic, mainline Protestant, evangelical, Jewish—hardly ever discuss the issues of marriage and divorce?

True, there are signs of change. In November 1993, Catholic bishops issued a pastoral message affirming the importance of marriage, and the Evangelical Lutheran Church issued a draft report echoing the same sentiment. Yet neither report suggested specific strategies to deal with the grim fact that marriage is a losing gamble for most couples.

Meanwhile, some churches are becoming "marriage savers," places that have learned to bond couples for life, by: avoiding a bad marriage before it begins; helping engaged couples become prepared for life-long marriages; strengthening 90 percent of existing marriages; and saving four-fifths of deeply troubled marriages.

Many seriously dating couples can avoid a bad mar-

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riage simply by deciding not to live together, which has proven to be a poor way to establish a long-term marriage. Some churches have a much better answer. A few of the most effective tools include:

Relationship Instruction, a course given to seriously dating couples to help them decide if they should continue their relationship toward marriage. It has the opposite effect of cohabitation: Instead of the 85 percent failure rate of trial marriages, there is a 90 percent success rate for those who marry. Created by Dr. Jim A. Talley, a Baptist pastor, the four-month course is centered around eight lessons that require extensive writing in a workbook. One week, the couple writes a brief autobiography on the most important influences in their childhood, their teen years, etc. They exchange the workbooks first with each other, and then with a pastor or mentor couple who meet with them eight times. Often that forces a painful discussion about an alcoholic father or a distracted mother. Another week each outlines detailed goals, personal, spiritual, and professional.

Another significant dimension of Relationship Instruction is that the couples agree in advance and sign a contract to remain sexually inactive. In fact, they must agree to call up their instructor or mentor couple if their physical involvement becomes too intimate.

"**PREPARE**," a premarital inventory developed by Lutheran psychologist David Olson. About 100,000 couples a year complete PREPARE, a questionnaire that can predict with 85 percent accuracy who will divorce. Each person indicates agreement or disagreement with 125 statements, such as "I am concerned about my partner's drinking and/or smoking"; "I can easily share positive and negative feelings with my partner"; or "I wish my partner was more careful in spending money." The inventory provides a virtual X-ray of the relationship, with strengths clearly outlined—as well as areas of conflict.

WHO PAYS THE BIGGEST PRICE FOR A COUPLE'S FAILURE TO KEEP THEIR MARITAL COMMITMENTS? THE INNOCENT—THE CHILDREN.

Dr. James Dobson is a psychologist whose daily radio show, "Focus on the Family," is carried by more than 2,000 christian radio stations, and whose books on the family have sold more that 7 million copies. In *Love for A Lifetime* he writes: "A dating relationship is designed to conceal information, not reveal it." PREPARE cuts through the facades. And 10,000 to 15,000 couples of 100,000 are so shocked by the results that they break their engagements. They have avoided what would probably have been a bad marriage, researchers say. For those who stay together, the survey strengthens their relationship. That's because the results are not handed over like a report card. Instead, the couple must have two personal meetings with a pastor or counselor to go over results.

Some in the religious community have long been aware of the importance of communication in marriage. Gallup interviewed divorced people and found that physical abuse broke up only 5 percent of marriages; substance abuse, 16 percent; infidelity, 17 percent. But "incompatibility" (poor communication or conflict-resolution skills) sparked three-fifths of divorces.

Improving Communication

Most Catholic dioceses and some Protestant churches have taken four steps to improve couple communication:

Premarital Inventories. These inventories are given to help each couple objectively assess their strengths and weaknesses. PREPARE, for example, was piloted in a Catholic diocese, though the most widely used questionnaire among Catholics is called "Focus." "A lot of time is spent going over the inventory—several hours" with a witnessing priest or a deacon, says Monsignor Joe DiMauro, Camden, New Jersey's family life director.

Mentor Couples. In Catholic churches, these couples do most of the marriage preparation, partly because priests are celibate and partly because they must deal with 10 times as many parishioners as an average Protestant pastor. However, Protestant churches have only recently begun to emulate this innovation. I am convinced that the greatest resource for saving marriages are mature couples with solid marriages who can be found in any church—who would be willing to work with other couples in need, if they were only asked.

Engaged Encounter. Among Catholics, it is the best form of working with mentors, because it involves an intensive retreat at which older couples share intimate details of their marriage with 20-25 couples. Each engaged couple then meets privately, writing answers to tough questions and talking about them: "What things do I talk to others about more easily than with you? What doubts do I have in marrying you?" All the practical issues of marriage are also faced: career vs. family, who will pay the bills, whether to have children, etc. Writing and dialogue also are central to the less demanding "Pre-Cana Workshops" attended by most Catholic engaged. Workbooks are used, and the results are often shared with other couples.

Time. Most Catholic dioceses now require at least six months of marriage preparation. During these weeks, the couples attend lectures on such issues as money, children, sex, and communication, in addition to the work with mentor couples. Most Catholic dioceses have had this rigorous "Common Marriage Policy" in place since the late 1970s. By contrast, most Protestant churches have no minimum time requirement, no premarital inventory, no mentor couples and no Engaged Encounter. The result? Catholic programs to improve communication have helped maintain a divorce rate in heavily Catholic Northeast that is about half that of the heavily Baptist South.

On the other hand, Catholic marriage preparation—and that in most mainline Protestant churches—is weaker than what strong evangelical churches offer in two respects. First, there is often little or no training in what Scripture says about marriage, divorce, or biblical love. Second, Catholics tend to sidestep the moral issue of

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cohabitation. Baptist Jim Talley, creator of "Relationship Instruction," has worked with 10,000 singles over the years and concluded it is essential to ask cohabiting couples to separate for several months before marrying them. "Eros pushes out God," he says. A commitment to marriage is best developed with the couple living apart—not together.

Marriage Savers

In addition to pre-marital counseling, churches must do a better job of helping married couples stay on track. One successful step is a two-day retreat called "Marriage Encounter." Some 1.5 million couples have attended over the last 25 years. According to 30 academic studies, based on extensive interviews with attending couples, the results are remarkable. Nearly nine out of 10 couples fall back in love with their spouse, and at much deeper levels.

In a recent study, 325 couples were interviewed who had been "encountered" between 1968 and 1990. Some 45 percent said their marriages were only average or unhappy before they went. Yet 83 percent gave Marriage Encounter high marks. Today, 100 of these couples still say their marriages are "excellent" and 145 call theirs "very good." Only 20 said their marriages are "the same" or "poor."

Two central principles are taught in Marriage Encounter. First, feelings are neither right nor wrong. Rather, feelings express the real person, and need to be communicated and worked through. Second, love is a decision, not a feeling. When we do something special for a spouse—even when our emotions are at a low ebb—our sense of love actually grows. Feelings follow actions. At least as important as weekend retreats, churches must nurture a congregation of solidly married couples who can help others at various stages of marriage—particularly those with deeply troubled marriages. These "marriage savers" have reduced the divorce rate to 10 percent or less in some churches.

Take Father Dick McGinnis, of St. David's Episcopal church in Jacksonville, Florida. He pulled together seven couples with once-rocky marriages to learn how they saved them. Over the next year, they developed 17 marriage principles common to their success, including: "We made a decision to stay together"; "I accept my mate as he/she is"; "I realize that the problem was with myself"; and "I became aware that I needed to change ... and began to change with God's help." The seven couples have worked as mentors with 33 couples in deeply troubled marriages, none of whom has divorced. In fact, there has not been a divorce in his church since 1987.

A Community Covenant

All the major religious traditions have at least partial answers to questions and challenges facing couples. In talks before local clergy, I have begun calling for creating a "Community Marriage Policy" that would blend the best of the reforms outlined here into each congregation, with minimum requirements for anyone who wanted to get married in a local church.

AP/Wide World Photos

Mature couples, acting as "mentors," can give useful advice and instruction to young couples contemplating marriage.

Here's what I've been asking pastors around the country: What if the reforms pioneered in various church traditions were implemented across denominational lines in a conscious effort to push down the divorce rate? Can you stand together and say, "If you want to marry in a church in this community, you have to meet minimal standards of local pastors who want to help raise the quality of commitment in those we marry"?

The apostle Paul wrote to the Ephesian church that the job of the pastor is "to equip the saints for the work of ministry." What more important ministry is there than saving marriages? It should mean more to have one's marriage blessed by God than by a Justice of the Peace. A Community Marriage Policy would enable every church to become known as a "marriage saver" rather than as a "wedding factory."

Accepting the Challenge

It is beginning to happen. In Modesto, California Baptist pastor Jim Talley and I spearheaded a "Modesto Community Marriage Policy," with 95 clergy in Modesto joining together for reform. Eighteen other cities have now adopted a Community Marriage Policy, ranging from Fairbanks, Alaska to Homestead, Florida, and Fresno, California to Bethel, Connecticut and, most recently, Montgomery, Alabama. In all of them, pastors make a remarkable confession and set an astonishing goal, summarized in two sentences: "Almost 75 percent

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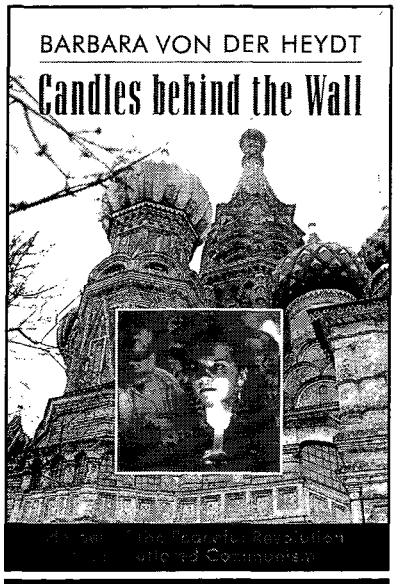
of all marriages are performed by pastors, and we are troubled by the more than 50 percent divorce rate. Our concern is to radically reduce the divorce rate among those married in area churches."

Specifically, pastors have agreed to a minimum of four months' marriage preparation in which engaged couples take a premarital inventory, attend Engaged Encounter, and meet with an older mentor couple both before the wedding and twice in the first year of the marriage. They have agreed to urge every married couple to attend a Marriage Encounter-type retreat to strengthen existing marriages, and to train couples whose marriages were once rocky to work with troubled couples. The newest cities with Community Marriage Policies are also offering Relationship Instruction to seriously dating couples and are urging teenagers to make formal pledges of sexual abstinence.

What has been the result? In 1991, when a covenant was adopted in Peoria, Illinois, there were 1,210 divorces in Peoria County. In 1992, they fell to 947. The pastors of Peoria are, indeed, radically reducing the divorce rate—and not just in area churches, but across the entire metropolitan area.

It is encouraging that the America's two largest denominations have accepted the challenge of making their local churches sources of strong and stable marriages. The Southern Baptist Convention and the Roman Catholic Church—poles apart theologically—cooperated this fall in creating Community Marriage Policies in seven southern cities. Archbishop William Keeler, who is president of the National Conference of Catholic Bishops, is not only starting a CMP in his home city of Baltimore, but has urged local priests in three southern states to work with the Baptists in recruiting clergy to develop CMPs. In addition, the Baptist Sunday School Board—the nation's largest religious publisher—and the American Family Association are co-producing a series of videos that will help any church learn how to become a marriage saver.

Hopefully, these will be only the first steps of organized religion's renewed commitment to preventing bad marriages, strengthening good ones, and saving families—arguably, one of the church's most important tasks. ☎



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SALAMANDER THE GREAT

The Imperial Reach of the Endangered Species Act

ROBERT GORDON AND JAMES STREETER

If the biblical Noah had been subject to the Endangered Species Act, he might have been reviled as an animal-hater, fined, and kept from launching his ark. Why? Because he probably wouldn't have thought to haul on board the San Marcos salamander, the Arkansas fatmucket, or Puerto Rico's Tuna Cave cockroach.

The Endangered Species Act (ESA), which extends—or hopes to extend—federal protection to thousands of species of plant and animal life, is considered by many to be the most comprehensive and powerful environmental statute on the books. That's because actions threatening the life or habitat of any one of hundreds of species of insects, plants, or animals are punishable under the ESA—resulting in fines, freezes on development and restrictions on countless activities on both public and private property. Moreover, the act's provisions and rulings, applied largely through the U.S. Fish and Wildlife Service (FWS), are nearly incontestable.

$50,000 PER SNAIL

Just ask Utah entrepreneur Brandt Child. Mr. Child planned to build a campground and golf course on his property in Three Lakes. Neighbors in southern Utah had long used the area for recreation, and the spot seemed ideal for the planned improvements. The project, however, was brought to a halt when the FWS declared Mr. Child's pond to be prime habitat for the endangered Kanab ambersnail. The area was fenced off, people were no longer allowed on the pond's banks, and Mr. Child was forbidden to work in the area. He dutifully contacted the FWS to report that a flock of domestic geese had taken up residence at his pond. If the geese ate any snails, the owner of the geese could face a $50,000 fine for each snail.

The Fish and Wildlife Service asked the Utah Department of Wildlife and Resources to send someone to shoot the geese, remove their stomachs and bring the contents to Salt Lake City so they could determine how many snails had been eaten. But when a state wildlife agent and a highway patrolman arrived and saw newsmen and photographers, they opted not to shoot the geese, claiming they did not have jurisdiction. Later, the Fish and Wildlife Service induced vomiting in the animals, which was analyzed but contained no snails. Today, the geese are living happily elsewhere and the snail population is soaring in the pond—but Mr. Child has never been compensated for his estimated $2.5 million loss.

RIPE FOR CHANGE

Stories like Mr. Child's are finding a more sympathetic audience in Congress. Representative Billy Tauzin, D-LA, is the chief sponsor of a proposed revision of the Endangered Species Act, which would compensate landowners who suffer financial loss as a result of environmental rulings. Mr. Tauzin predicts a "real war" in Congress over the ESA's reauthorization, expected to be voted on this year. No wonder: One high-level Clinton official said an assault on ESA makes the green community "hyperventilate in unison."

If true, hyperventilation may be just around the bend. Conservative lawmakers are not likely to sit still during the act's reauthorization, as battles last fall indicated. Despite vigorous opposition from the green establishment during a recent House vote on a property rights amendment to an environmental proposal, conservative congressman Charles Taylor's (R-NC) prevailed better than a three to one margin.

Moreover, Secretary of the Interior Bruce Babbitt's National Biological Survey, an inventory of the nation's biological resources, is likely to widen the ESA's effect on landowners. That will mean more horror stories of vomiting geese, usurped property rights, and frozen development—something that the general public seems less and less likely to accept.

The time is ripe to amend significantly the Endangered Species Act, which contains at least five critical areas that must be addressed:

1. It has never recovered a single endangered species.
2. It depends on bogus science.
3. It is applied to unreliable biological distinctions within species.
4. It is promoted through bait-and-switch tactics.
5. It has an ever-mounting toll on individuals, society, and the economy.

ROBERT GORDON *is the executive director and* JAMES STREETER *is the director of policy of the National Wilderness Institute.*

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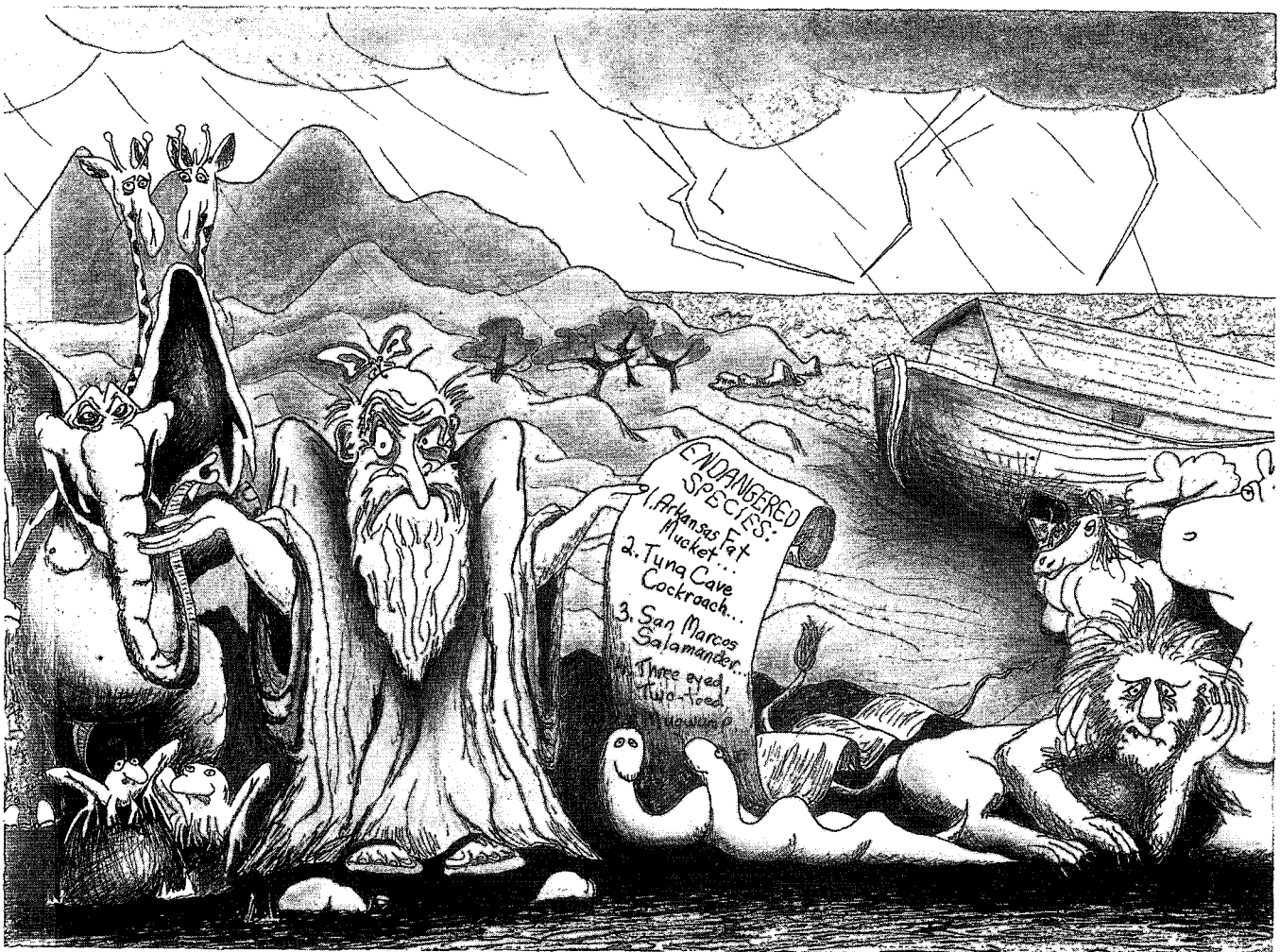

original drawing by Sam Walker for *Policy Review*

If the Biblical Noah had been subject to the Endangered Species Act, he might have been reviled as an animal hater and kept from launching his ark.

The first difficulty with the ESA is that, despite incurring billions of dollars among the public and private sectors, there is no evidence that it has led to the reclaiming of truly endangered plants and animals. The status of some species has improved over the life of the act, but to date not one species has legitimately been taken off the list as a result of government recovery efforts.

Although six species have been termed "recovered," a more honest explanation would be "data error," meaning they never belonged on the list in the first place. Three of the so-called "recoveries" are birds on the tiny North Pacific island trust territory of Palau, who actually owe their "recovery" to the discovery of additional birds. Similarly, the Eastern brown pelican, the American alligator, and the Arctic peregrine falcon all owe their "recovery" either to being mistakenly listed or to factors independent of the ESA.

While never officially declared a recovered species, ESA supporters often site the gray whale as a success. It is another bogus claim; its population has been improving for over a century, tripling from fewer than 5,000 to about 14,000 three years before the act was approved. The whale owes its recovery to capitalist John D. Rockefeller, who made his first millions by convincing America to switch from whale oil to kerosene.

Peculiar, Not Endangered

The ESA's bogus scientific standard for determining what is endangered is a second reason to amend the act during reauthorization. Similar to the criteria for membership in some secretive British men's club, the criteria for securing an endangered listing are murky. There are currently over 800 listed domestic species with about 100 added each year. In deciding what to list, the FWS uses the "best available scientific and commercial data" on a given species. However, the term "best available" creates a relative standard. Data need not be conclusive, verifiable or sufficient to draw a conclusion.

The story of *Polyphylla barbata*, or the barbate June beetle illustrates just how species that are not in danger can make the endangered list. A botanist formally requested that FWS add this beetle to the endangered species list, arguing that it is limited to a few square miles and that business operations threaten its survival. If it is formally declared endangered, any action (such as road maintenance, repairing a septic tank, or building a home) that would "harass, harm ... pursue, wound, kill, trap, capture, collect" a beetle or larvae would violate the ESA. Each violation carries up to a possible $25,000 fine and a year in jail.

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Photofest

Can you spot the Mexican Duck? Actually, there's no such thing—so it's been taken off the endangered list.

However, Bill Hazeltine, an expert on this beetle, says it has some peculiar habits which make it hard to find. For one thing, in its larval stage this beetle lives underground feeding on plant roots. Moreover, it is generally believed that only males take flight—the easiest time to find them—and that they fly in search of females for about a 45-day period between mid-May and mid-June. And the beetles fly only between about 8:45 PM and 9:30 PM. Mr. Hazeltine has documented that the beetle's habitat is at least 10 times greater than the officially acknowledged area. It is not endangered.

The case of the tumamoc globeberry provides another useful example of mistakenly listing species because of bad or incomplete scientific study. This scruffy Arizona vine was added to the Endangered Species list in 1986. The listing set in motion government expenditures by federal and state agencies to reclaim the globeberry. Meanwhile, the FWS decreed that the Tucson Aqueduct project posed a threat to the plant and ordered a halt to construction. Within a few years the plant soaked up more than $1.4 million in funds from the Army Corps of Engineers, the Bureau of Land Management, the Department of Defense, the Bureau of Indian Affairs, and a host of other sources. The result? Last year the Fish and Wildlife Service decided the tumamoc globeberry wasn't endangered after all and took it off the list.

Much Ado Over Little Aguja

Unfortunately, the Endangered Species Act's sloppy scientific standards encourage federal officials to be far more inclined to make listing mistakes than they are to correct them. Consider the case of the Espy ranch and the Little Aguja pondweed in Texas. In 1988, Katherine Espy received a letter from the FWS notifying her that the Little Aguja was being considered for endangered listing and that it had been found on her property.

The pondweed was indeed added to the list, and Mrs. Espy and other landowners from West Texas are still wondering why. The Little Aguja has never been studied to determine if it is only a slight variation of a common species or a distinct, separate species. It can only be differentiated from other nearly identical varieties of pondweed by a botanist (using a microscope to spot a slight variation in linear leaf tip that can be found only during certain times of the year). The decision to list the pondweed was based on three observations—one by a doctor of botany who recommended against listing, one by a graduate student who had misidentified a similar plant, and one by an undergraduate student. When FWS asked a botanist to check for the Little Aguja, he was instructed that he "need not look for it outside Little Aguja Creek." Apparently, one way to insure that your information is the "best available" is to simply avoid looking too hard anywhere else.

If It Looks Like a Duck . . .

The Little Aguja also underscores a third reason for reforming the ESA: the expansive manner in which species is defined. The act extends complete protection to sub-species, members of the same species of plants or animals, that have slight variations in physical appearance, behavior or geographical distribution. Such distinctions are subjective and often not very significant.

Take, for example, the Mexican duck. It was thought to be a unique animal and granted federal protection. As a result, the Vaca family ranch in Arizona lost 200 acres from its grazing permit thanks to a state and federal project to protect the duck's habitat. It turned out, however, that there is no such thing as a Mexican duck; it is nothing more than a mallard, and has been taken off the Endangered Species list.

In the late 1980s in Arizona, it wasn't ducks but the common red squirrel that halted construction of an observatory by the University of Arizona, the Smithsonian, the Vatican and the Italian and German governments. The observatory was to be built in the Pinaleno Mountains in Graham County, where the federally protected Mount Graham red squirrel thrives. The Mount Graham variety is a subspecies of the abundant red squirrel, from which it is distinguished primarily by a narrower skull and a generally "higher-pitched chatter."

The chatter of ESA enthusiasts proved to be even higher. They hoped to kill the project by stipulating numerous construction requirements to minimize any adverse effects on the squirrel. FWS biologist Lesley Fitzpatrick admitted that the "FWS did not want to take a stand against development, but hoped to make their suggestion a poison pill that would cause the Forest Service to reject development or the university to abandon the project." Between 1988 and 1991, the FWS spent about $98,000 on the squirrel and the Forest Service spent $770,000. The University of Arizona and its allies managed to prevail over the FWS, however, and construction of the observatory is finally underway. By all accounts, the squirrels continue to flourish.

Another problem with how the act defines species is at its extension of protection to "distinct vertebrate populations." These designations, based on geographical distribution of species, lack any scientific basis whatsoever; they are political, created specifically for ESA. Thus for example, wolves and grizzly bears, plentiful in Canada and

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Alaska, are considered endangered below the US-Canadian Border. The upshot is that this definition allows animals to be listed as endangered if they become rare in one location even though they may be plentiful everywhere else.

Consider: The Mountain States Legal Foundation is appealing an administrative law judge's ruling that a Dupuyer, Mont. man violated the Endangered Species Act when he shot and killed a grizzly bear on his property. John Shuler had seen a grizzly bear heading toward his flock of sheep one night, so he grabbed a rifle and scared off three bears. He turned and came face to face with a fourth grizzly which reared up in front of him. Fearing for his life, he shot it. The next morning, he went to look for the dead bear, but discovered it was only injured and it charged him. Mr. Shuler shot and killed it. The judge has ruled that the ESA's self-defense exception must meet the criminal law test applied when deadly force is used against a human. According to the judge, Mr. Shuler "intentionally placed himself in the zone of imminent danger," and cannot claim self defense. It seems that anywhere the act is being applied is the real zone of imminent danger.

Bait and Switch

A fourth flaw with the ESA is that it does not discriminate between the protection afforded a bear or a beetle. When the average American considers the issue of endangered species, he thinks of eagles and manatees. These

ANIMALS MAY BE LISTED AS ENDANGERED IF THEY BECOME RARE IN ONE LOCATION, EVEN IF THEY ARE PLENTIFUL EVERYWHERE ELSE.

are the species that attract support: the warm and cuddly animals, the gentle woodland creatures. However, with the exception of plants, the act gives the same protection to all endangered species. Recognizing how this can create public relations problems, one National Park Service manual says that "from an educational standpoint, popular plants and animals can be used as a spoonful of sugar to make the medicine go down." It's a classic case of bait and switch: financial and political clout are gathered for fuzzy, likable mammals like pandas, but the law is then applied to anything that crawls.

Two years ago, Mr. and Mrs. Richard Bannister, of Lusby, Maryland, were prohibited by a state environmental agency from taking actions to prevent erosion that could jeopardize their house. Why? In a word, beetles.

There are more than 290,000 species of beetles in the world and 28,600 in North America. The Puritan tiger beetle is one of 130 or so species in North America belonging to the genus *Cincindela*. It has found its way onto the endangered list. The Bannisters were forbidden by Maryland, regulators from stopping the erosion that threatened their house because some of their property

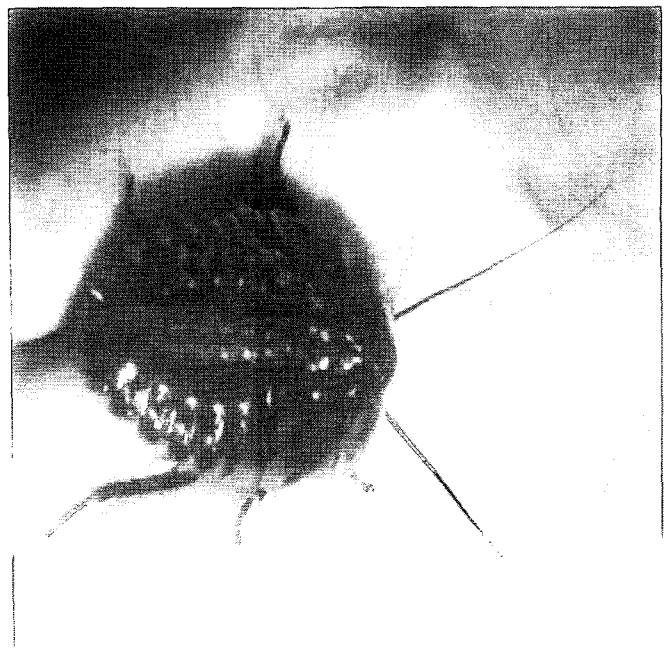

photo courtesy of James Lacy

The Puerto Rico Tuna Cave Cockroach and other bugs like it are among the hundreds of insects whose need of protection is in doubt.

was a potential habitat for the beetle. They were told that any action they took should "not entail destroying tiger beetles." While they wrestled with the state bureaucracy, a 15-foot section of their property plunged into the Chesapeake Bay. Fortunately, no one was hurt—except for any tiger beetles that may have been in the habitat destroyed in the slide.

Because big-government environmentals have pretty much run out of popular new animals with which to block the actions of businesses, towns, or private property owners, future listings will include more invertebrates and plants. It is inevitable: more than 65 percent of the official candidate animals for the list are insects, arachnids, crustaceans, mussels, clams, and snails. There are nearly 300 snails under consideration for listing alone.

This explains the brouhaha in Idaho, where 59 farmers and ranchers are locked in a lawsuit with the U.S. Fish and Wildlife Service to preserve their water rights and protect agricultural enterprises along the Snake River. Federal authorities insist that the farms are lowering the water level of the hot springs where the Bruneau Hot Springs snails—about the size of a pencil point—are found. Local farmers say the springs and the snail population, are being replenished now that seven years of drought are over; prolific animals, the snails can be found in concentrations of more than 6,000 per square foot.

Suffering Salamanders

The Idaho debacle serves to illustrate the huge economic and social costs imposed by the ESA and offers a final argument for change. Individuals, business, towns, counties, states and even federal agencies across the country are being caught by the Act's reach.

It is most certainly happening in a city near you. In San Antonio, a judge has ordered a 40 percent reduction in water usage by the 1.5 million residents of the city and

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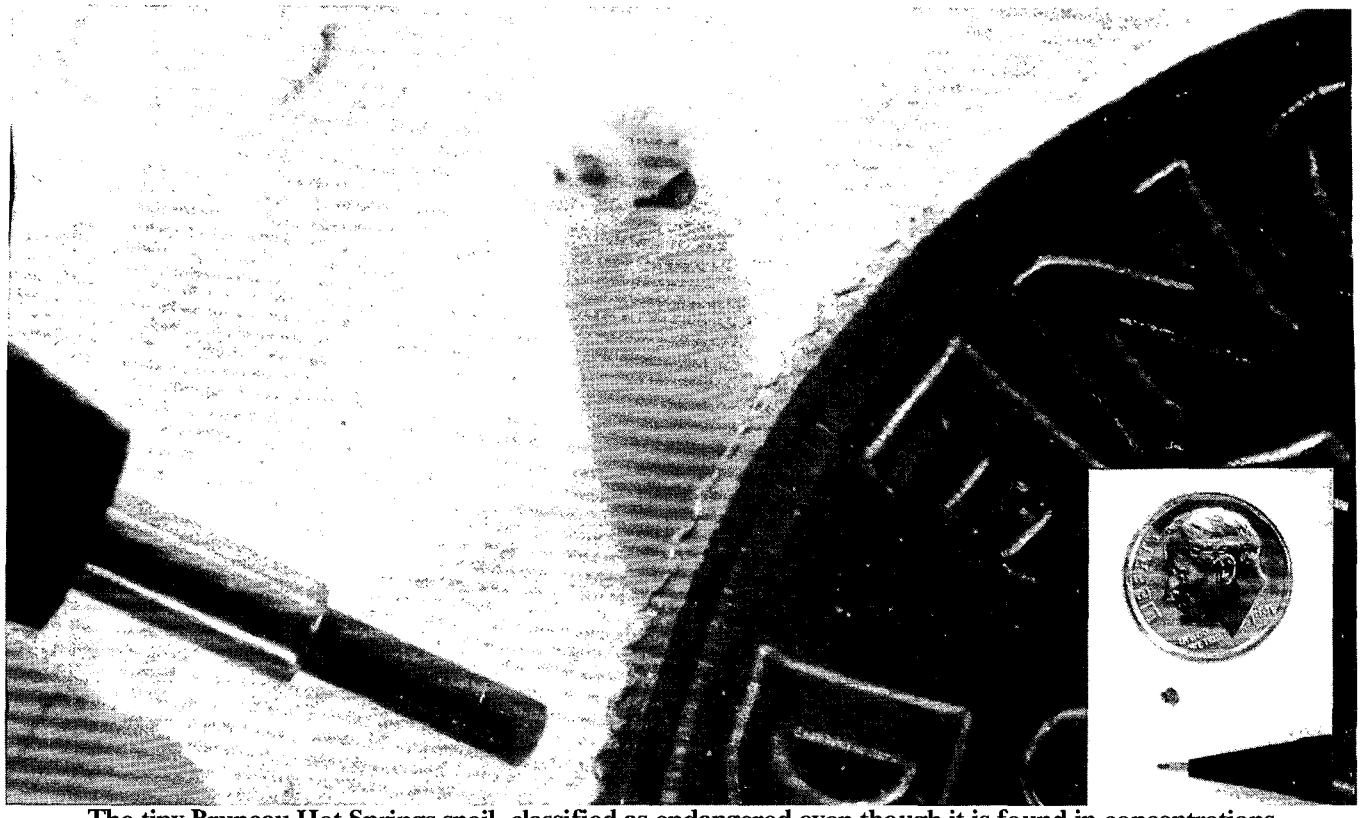

Idaho Farm Institute

The tiny Bruneau Hot Springs snail, classified as endangered even though it is found in concentrations of up to 6,000 per square foot, is now the subject of a lawsuit brought by farmers and ranchers in Idaho.

surrounding area. Several animals and plants are being used to justify such draconian decrees: the San Marcos salamander, the Texas blind salamander, the fountain darter (a minnow), and a strain of wild rice. The Sierra Club Legal Defense Fund and the Guadalupe-Blanco River Authority were successful in filing a suit which argued that current water consumption was endangering these species. They are not the only species now being threatened—ranchers, farmers, families and businesses in San Antonio are facing severe water loss. According to residents, property values and business revenue are declining as a result of the water dispute.

When government actions collide with the ESA it is during a process called jeopardy consultation. If the FWS determines that one of these activities may jeopardize the existence of an endangered species or its critical habitat, it issues a "jeopardy opinion" which prohibits the activity from being carried out as planned. The result is to either halt or modify—often significantly—development or construction plans.

Early in the history of ESA implementation, it was mistakenly thought that the jeopardy consultation provision would only affect government activities, not private actions. But with the reach of federal regulatory power so vast today, thousands of people are finding their ability to use their property severely restricted. Wetland permits that are required for countless actions on private property are the sort of federal action subject to jeopardy opinions. Given the zeal with which some bureaucrats pursue their agenda, it should not be surprising that this has often been abused.

Or so it seems to the owners of the Shorelands Company, a developer in the San Francisco Bay Area. In the late 1980s Shorelands planned to turn a former salt-harvesting facility—sited on barren, salt-laden clays that are unable to support vegetation—into a race track and industrial park. But FWS jeopardy opinions stated that the development would endanger the California clapper rail (a hen-shaped marsh bird), the California least tern (a water bird), and the salt marsh harvest mouse. This finding is remarkable given that none of these species inhabits the property, and there is no suitable habitat at the site nor any prospect that suitable habitats could naturally develop.

Unhindered by reality, FWS concocted a fantastic rationale for prohibiting development. The agency argued that global warming will eventually result in 13-foot rises in the oceans; therefore, San Francisco Bay—along with the existing habitat for these endangered species—would be inundated. When this cataclysmic event occurs, wiping out major urban areas of the United States, the FWS will apparently busy itself by creating new habitats for these species on the Blumberg Tract.

Beginning in October of 1987, the agency held up development of Blumberg for three years—just long enough to cost the Shorelands Company $12 million and to send the firm into bankruptcy. Perhaps the most revealing aspect of this whole episode is that FWS previously identified this property as one of its top acquisition priorities. Certainly, property in an urban area like San Francisco that might command a six figure price per acre would be cheaper for the Service to "acquire" if everyone else was afraid that absurd regulations had destroyed the property's value.

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A Double Standard

The costs of complying with the Endangered Species Act fall heavily on private landowners who can lose land, pay exorbitant fines, face crippling restrictions on the use of their property, or watch investments and business ventures collapse. Part of the reason for this is that the standards for complying with ESA regulations are much tougher for private property owners than government agencies. Workers on government projects, for example, are permitted to harm or kill individual animals as long as they don't jeopardize the existence of any species. Landowners, however, may not "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" a single specimen of a listed species. This is a curious arrangement, given the fact that it has been the government that has provided destructive farming subsidies and encouraged irresponsible development through subsidies and disaster relief.

The result has been evaporating liberties and mounting economic and social pressures on the private sector. Take, for example, Cindy and Andy Domenigoni, Sacramento farmers who have lost $75,000 of their annual gross income since 1990 because of ESA prohibitions against farming 370 of their 720 tillable acres. The weapon of choice: the California kangaroo rat (k-rat).

But this is not the worst of the conflicts between the k-rat and humans. Those who live in California's 77,000-acre k-rat study areas have learned the hard way how mindlessly inflexible the Endangered Species Act can be in the hands of determined bureaucrats. Everyone recalls the vivid news scenes from last October when wildfires swept through California, charring 25,000 acres and destroying 29 homes. Homeowners point out that ESA restrictions, by preventing homeowners from clearing brush or building firebreaks around their homes, helped make the area vulnerable to fire. "My home was destroyed by a bunch of bureaucrats in suits and so-called environmentalists who say animals are more important than people," says rancher Yshmael Garcia. "The only way to protect against fire is to build a firebreak, and we weren't allowed to do that."

Review Is Overdue

Can our endangered species efforts be redirected to become more effective and humane to animals and less brutish to humans? Not without changes in the Act. To make the law really work for endangered species and for people it would be best to start over and create a system in which landowners had incentives to provide habitat for endangered species, and private conservationists had freedom to propagate them—a supply-side, market-based system.

Short of such fundamental changes, however, important reforms are needed. Requirements for sounder science could be incorporated in the law. The "best available data" standard could be changed to require that the data be sufficient to draw scientifically verifiable conclusions based on field data—not computer models and theory. While allowing the grandfathering of currently listed popular species, additional listings could be limited to full biological species, rather than the subjective "eye of the beholder," categories such as sub-species and distinct population. The addition of strong property rights protections to the act would probably do more than any other reform to make it work better for people and animals. As it stands, the act penalizes landowners who provide habitat for wildlife by restricting their use of land and rewards those who escape the Act's jurisdiction by sure their land is inhospitable to wildlife.

Leading proponents recognize, although they cannot admit it publicly, that the Act is vulnerable to attack on the following points. After 20 years without serious examination, ESA was overdue for a performance review. The act has turned out to be little more than quack medicine, which not only wastes money while failing to recover anything, but also prevents us from seeking more effective remedies.

THE ADDITION OF STRONG PROPERTY RIGHTS PROTECTIONS TO THE ESA WOULD PROBABLY MAKE IT WORK BETTER FOR PEOPLE AND ANIMALS.

During this reauthorization fight, it is important to remember that tiger beetles, kangaroo rats, ambersnails, and pondweeds, in whose names great injustices are committed, do not deserve to be the objects of reformers' frustration. Their preservation is merely the excuse of those who favor heavy-handed government.

Not one species can honestly be considered to have recovered as a result of the Act. Its scientific standards were originally designed to be weak. Its definition of "species" is conveniently elastic for those who use the act to control land. Its purveyors employ bait-and-switch tactics to deceive and marshall public support. Its powers are extraordinarily broad and discretionary for those who govern, while rigid and inflexible for the governed. Its provisions invite administrative abuse, and the bureaucracy has accepted the invitation. Its social and economic costs are like an approaching iceberg: only the tip is showing.

If these issues can be established as the primary points of debate, this reauthorization may finally begin the march toward an effective and reasonable endangered species program that all Americans can be proud of.

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Has Conservatism Lost Its Mind?

The Half-Remembered Legacy of Russell Kirk

Bruce Frohnen

It's been 40 years and seven editions since the first publication of Russell Kirk's *The Conservative Mind.* As one observer recently put it, Mr. Kirk "is like ol' man river: he just keeps rollin' along." And so does his work. *The Conservative Mind* still is widely considered the single most influential book for modern conservatism. But are the leading ideas and policy proposals of today's conservative movement truly conservative in the sense in which Mr. Kirk used the term? The answer is both yes and no.

This question is difficult to address because Mr. Kirk produced no schematic blueprint for "the good society." As he pointed out, "Conservatism is not a fixed and immutable body of dogma, and conservatives inherit from [Edmund] Burke a talent for re-expressing their convictions to fit the time."

Nor do Mr. Kirk's conservatives attempt to construct any one, specific form of government. Instead they seek to maintain what Mr. Kirk called the "permanent things"—the standards of proper conduct derived from revelation, tradition, and reason best summed up in the command: "Love your neighbor as yourself."

The Divine Vision

The Kirkean conservative seeks to preserve "the old motives to morality and diligence that conservatives always had believed in: religious sanctions, tradition, habit, and private interest restrained by prescriptive institutions." Mr. Kirk argued that these motives should be maintained, not only for their own sake, but for the virtuous character and way of life they make possible. The conservative good life consists of affectionate attachments—to family, to church, to one's neighbors and co-workers—that can be lost in the drive for equality and material improvement.

Conservatism begins, Mr. Kirk wrote, with the knowledge "that a divine intent rules society as well as conscience"—that a higher being binds us to our fellows and to our particular duties. It also requires that we recognize the limits of our reason and goodness and look to traditional mores and customs to determine how we should act. Thus, we must protect our traditional way of life, with its many professions, ranks, and orders of men, as well as the sanctity of property upon which our liberty is based. Politics, and especially the central government, must be subordinated to social action and institutions—family, church, and local association—so that we may preserve the essential character of ourselves and of our way of life.

Mr. Kirk's vision does not lend itself to systematic analysis of discrete, specific policy positions. His primary concern always has been with the order of our souls, not with any one particular policy, save as it affects the permanent things. Yet certain policies are more likely than others to protect what ought to be the immutable aspects of the American character. In this spirit I examine some key conservative positions of the 1980s and 1990s, and ask whether they maintain the understanding of conservatism Mr. Kirk has set forth throughout his many writings, but especially in *The Conservative Mind.*

A Robust Economy

Conservatives today stand for economic opportunity. Conservatives, whether "paleo," "neo," or "libertarian," recognize that welfare programs are undermining our character by taking from us the essential responsibilities of life. Unlike liberals, conservatives actually believe in the catch-phrase used by the "new Democrat" Bill Clinton in accepting the Democratic nomination: Government should provide "more empowerment and less entitlement." Conservatives believe that government should help people become self-sufficient, not make them dependent on public handouts.

In this spirit, conservatives oppose liberal "entitlements," instead favoring a strong, robust economy, fostered by deregulation and lower taxes, so that the poor may find jobs and advance in the world. Indeed, many conservatives see economic growth as a primary object of public action. In his first inaugural address, President Reagan stated that "This administration's objective will be a healthy, vigorous, growing economy." But that is not the way Russell Kirk would define the purpose of a conservative administration.

From a Kirkean perspective, policies aimed at getting people off welfare are essential, but must look beyond material incentives and benefits. Mr. Kirk is careful to

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praise economic pursuits only when undertaken in a proper social and moral context. In addition to faith, he identifies three other "passionate human interests" that strengthen our sense of duty "and the reason for believing that life is worth living": the perpetuation of our spiritual existence through the life of our children; the honest accumulation of property; and the confidence that we participate in a natural and moral order in which we "count for more than the flies of a summer."

Mr. Kirk emphasizes the acquisitive instinct's proper submission to family loyalty—to the desire to leave something for one's children and gain honor in so doing. Work is good because it shows us that we are necessary members of our communities. It makes us better by motivating us to live up to our duties to family, friends and neighbors. It helps instill the habits necessary for a good life. To foster job growth is, then, a Kirkean good, provided it is done with an eye toward rebuilding families and local communities, and not merely for the sake of economic growth.

Mr. Kirk rarely mentions economic "growth" save to criticize some Americans for portraying cheap consumer goods as the essence of the American way of life. He does not reject economic health and vigor, but his main concern is for economic stability, which " ...does not mean the securing of plenty for everyone: No social program, least of all the planned economy of the welfare state, is likely to succeed in gratifying the material appetites of all humanity."

"The 20th-century conservative is concerned, first of all, for the regeneration of spirit and character."
— Russell Kirk

However, Mr. Kirk argues for an economy grounded in "a rational relationship between endeavor and reward." Mr. Kirk often points to the secure position and widespread possession of property as a great bulwark of our liberty and way of life. Men who own property will seek to improve it, and perhaps acquire more. They will recognize that their continued enjoyment of this property requires both a free economy and social and political stability.

The pursuit of property and economic efficiency—whether through improved technology, business relocations, or government action—often has unintended consequences: It can, for example, disrupt communities by shifting or eliminating jobs and shattering social ties. Thus, Mr. Kirk insists that entrepreneurs will seek to balance their desire for economic advancement against the requirements of tradition. They should seek to protect property rights against government regulation—and against government agencies, which too often level established neighborhoods to make room for economic "progress." Mr. Kirk argues that we must not pursue property so single-mindedly that we forget that it is economic stability—that "rational relationship between endeavor and reward"—which binds communities together and maintains a virtuous way of life. If pursuit of material reward becomes mere greed, it, like any other appetite, will corrupt our character and our society.

Given this concern, Kirkean support for empowerment programs would be qualified. Enterprise zones, for example, put solid conservative principles into practice: They empower poor people by revitalizing economically distressed areas. Freeing entrepreneurs from burdensome taxes and regulations encourages them to start and expand businesses. If allowed to follow their own instincts rather than bureaucratic mandates, people will try to pull themselves out of poverty.

Unfortunately, some empowerment proponents assume that Americans are economic men—entrepreneurs who can be made virtuous solely by promises of material reward. Mr. Kirk consistently argues for the sanctity of private property and for reducing the role of the central government. And free enterprise remains the most efficient and just means for the exchange of goods. But as Mr. Kirk puts it, perhaps over-critically, "The nexus of cash payment, never a strong social link, does not suffice to keep down fanatic ideology, nor even to assure prosperity."

For Mr. Kirk, our cities' problems are due not primarily to poverty but to a breakdown in character. As he put it in *Enemies of the Permanent Things*:

> The American slum-dwellers may receive very good wages—when they work. Their trouble is that they are the uprooted, socially and morally. They have lost community, and many of them have lost any sort of moral coherence. Their failure, perhaps in the major-

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Our slums are pits of despair, in the Kirkean view, not because their inhabitants are poor, but because their sense of community has been destroyed.

ity of cases, is a failure of will, complicated and in part produced by the destruction of family and the landmarks of community.

Our slums are pits of despair, in the Kirkean view, not because their inhabitants are poor, but because their sense of community has been destroyed. Federal programs have taken over the proper functions of families and neighborhoods: they—not mothers, fathers, and neighbors—support children. There is no reason, and, thanks to the leveling effects of urban renewal, no place for people to come together to teach their children the habits of morality and hope. Without these habits, too many lose the will to struggle, to improve their lot and the lot of their broken families and communities.

The answer to chronic poverty lies in a regeneration of moral standards, not merely an unleashing of economic appetite. While many policy analysts concentrate on the "leading economic indicators," William Bennett is closer to Mr. Kirk when he points out that cultural indicators—such as those involving education, the family, and crime—are far more important in judging the well-being of our society. A well-ordered community will be relatively prosperous precisely because its members will not focus primarily upon money-making. As Mr. Kirk says, "Our industrial economy, of all economic systems man ever created, is the most delicately dependent upon public energy, private virtue, fertility of imagination. If we continue to fancy that Efficiency and Affluence are the chief aims of human existence, presently we must find ourselves remarkably unprosperous—and wondrously miserable."

Only when linked by a sense of duty to their families, churches, and neighborhoods can men pursue wealth with virtue. Only when they recognize rules higher than "buy low, sell high" can men maintain the peace and civility necessary for profitable economic exchange. Only when decency is seen as more important than profit can any community endure.

The Snare of Rights Talk

Conservatives today believe in protecting our rights against governmental interference, especially when it touches the education of our children. Conservatives long have defended individual rights against the central government, whether regarding private property, taxes, or other economic issues. Now, in the face of solidifying liberal intolerance, many conservatives also are asserting new rights in the social sphere—from "parental rights" in dealing with welfare and education bureaucracies to the "right" of religious groups to use public school facilities along with other groups.

Mr. Kirk always has been careful to discuss rights only in the context of history and the needs of the community. Thus he advocates the "preservation of local liberties, traditional private rights, and the division of power." For Mr. Kirk, rights within a political community develop over time in our counties and towns; we inherit them from our forefathers in documents like the Constitution (which is to be interpreted as its framers intended) and in daily

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practice. Moreover "the rights of individuals are found and maintained within a community—not against a community." Thus, Mr. Kirk is careful to insist that "every right is wedded to some duty." And both rights and duties come from historical practice, not from the supposedly all-powerful mind of the philosopher or the jurist. This means that when rights are discussed—whether for gun owners or the unborn—they cannot be stripped of their historical context. Thus, according to Mr. Kirk, no rights are absolute: The historical practice of a community must help us decide when, for example, an individual's right to life must bow to a society's right to protect itself against murder.

Today, arguments for school choice, for example, often are framed in terms of parental rights. Parents should have the "right" to decide what school their children will attend. By exercising this right, parents may hold teachers and administrators responsible for their actions. So empowered, conservatives argue, parents could replace political correctness and bureaucratic malaise with a return to traditional standards of excellence.

Mr. Kirk often criticizes the bureaucratic "educators" of the National Education Association. In his recently released *The Politics of Prudence*, he says it is "highly doubtful that any marked reformation of the public schools can occur until the several states ... adopt some form of the 'voucher plan.'" But "choice" merely provides the freedom to choose, and such freedom must be properly exercised if it is to be beneficial. To claim parental rights, Mr. Kirk says, is to run the risk of speaking the cold language of liberalism. Mr. Kirk's vision more properly encompasses the historical, habitual practices of American parents—practices recognizing significantly more parental authority than do today's "protective" bureaucracies.

As to religious rights in the public schools, it may be well to remember that religion, at least in Mr. Kirk's view, is the very basis of culture, and of civilization in particular. "Religious truth is the source of all knowledge." Thus, if we allow religious observance to become merely one more private, after-school activity, engaged in merely as an escape from public and political life, we will cheapen our very souls, and the soul of our community.

Parents should not have the mere "choice" or "right" to do as they wish with their children. Instead, we should again recognize parents' duty to decide how best to educate their own children. That recognition will allow us to go on to a more useful discussion of what kinds of decisions we would like to see parents make in this area.

If we are to restore learning in America, we must "return that learning to its original end of orientation toward the divine—that we may know what it is to be fully human, and to know that man is made for eternity." School choice in the Kirkean view is not an end in itself, but a means by which to recreate the moral and cultural consensus upon which real learning takes place. If learning is to make us a better people, it cannot focus on our particular desires, including our particular career goals. Instead, it must regain its focus upon "certain orienting books" within the Western tradition that teach us our nature and our duty. Job training and job creation are

New Jersey Newsphotos

Mr. Kirk insists that entrepreneurs will seek to balance their desire for economic advancement against the requirements of tradition.

"by-products" of genuine education; attempts to gain such ends directly are in fact the sources of educational corruption.

The Myth of Equality

Conservatives today oppose the radical egalitarianism of the new class of intellectuals and bureaucrats, instead wishing to establish a nation of middle class habits and values. Rejecting the notion that benevolent bureaucrats should control as they "support" the rest of us, conservatives prefer Lincoln's vision of a society in which hard-working laborers can become their own bosses. One might get the impression that Mr. Kirk rejects this vision of economic opportunity and the power of the work ethic. After all, he has written that "civilized society requires orders and classes." Yet Mr. Kirk asserts the primacy, not of inherited, but of "natural distinctions," linked to "ultimate equality in the judgment of God, and equality before courts of law."

One must not, however, underestimate Mr. Kirk's concern that the drive for equality has become too powerful in America: "Conservatism's most conspicuous difficulty in our time is that it confronts a people who have come to look upon society, vaguely, as a homogeneous mass of identical individuals, with indistinguishable abilities and needs, whose happiness may be secured by direction from above, through legislation or some manner of public instruction."

Many Americans, liberal elites in particular, have come to demand material equality. Affirmative action and other programs remain in place because too many of us have come to believe that all of us should be equal, not only in the sight of God and courts, but in our material success in life—regardless of our talents and efforts. These results are unachievable. But we see ever more political pro-

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grams aimed at producing them because we refuse to accept that some folk are more successful in life than others.

Mr. Kirk argues, without embarrassment, that it is not possible—or desirable—to have equality of opportunity in a free society. Families will never be equal in terms of parental support and motivation, natural giftedness, or financial resources. Contemporary conservatives, however, are almost mute on this point; hardly anyone openly questions the liberal assumptions about the desirability of equal opportunity.

THE ANSWER TO CHRONIC POVERTY LIES IN A REGENERATION OF MORAL STANDARDS, NOT MERELY AN UNLEASHING OF ECONOMIC APPETITE.

Along with most conservatives, Mr. Kirk fears and loathes self-appointed bureaucratic elites. Yet his central concern is the same as Edmund Burke's—that men learn to love their neighbors as themselves by acting as loyal members of the order to which they belong through birth, hard work and/or luck. And there are many orders of men, from farmers to laborers to tradesmen to the "educated classes," which Mr. Kirk feels are susceptible to conservative reasoning if only addressed in the proper manner.

A large and strong property-owning "class" is among America's greatest assets, according to Mr. Kirk. But the desire to protect this class must not become the demand that everyone be made a member of it, or that all its members act alike, since property-owners also may be farmers, tradesmen, or members of numerous other orders of men. What we should demand is equal adherence to the dictates of honor and duty to one's family, church and fellow man.

Rediscovering Character

Conservatives recognize that it is in our families, churches, and voluntary associations of local life that we gain the proper character, that is, learn how to be decent. Conservatives also recognize that our centralized welfare state is endangering these institutions. If one thing joins all members of the conservative movement, it is recognition that Lyndon Johnson's Great Society has virtually destroyed the notion of personal responsibility and public duty so crucial to local communities.

Here we see the continuing effect of Kirkean thought, with its emphasis on character building: Charles Murray, called both a neo-conservative and a libertarian, cites Mr. Kirk in the acknowledgments of his influential book, *In Pursuit of Happiness and Good Government*, as a man whose work profoundly influenced his own. Liberal social engineering, Mr. Murray shows, has destroyed the very folk it was designed to help. By rewarding illegitimacy and idleness, welfare programs have undermined the families and neighborhoods in which men and women learn the habits of economic and moral success.

James Q. Wilson, in *The Moral Sense*, also finds that families are the primary means by which we learn our duties, as well as how and why we should fulfill them. Examining numerous societies, Mr. Wilson finds that mankind everywhere looks to the family for moral instruction. Messrs. Murray and Wilson recognize what Mr. Kirk has long pronounced: Virtuous habits are learned only in the close associations of private and social life. The welfare state, by taking away our need to combine with our fellows, turns us into strangers who can look only to the government in time of need.

Restoring the Permanent Things

Mr. Kirk's response to most contemporary conservative policy positions seems to be "Yes, but ...." His vision encompasses most of these positions, but he sees them merely as means to a higher goal—restoration of the permanent things to their proper, central place in our lives.

Conservative discussions of family values show how Mr. Kirk's vision can be endangered by too much emphasis on practical questions. The family certainly is the source of habits of economic and moral success. But some conservatives fail to see that the family cannot be saved simply by asserting and exploiting its practical utility. And to argue merely that the family is useful is to surrender the moral high ground to those who value the whims of individuals above the needs of families and society.

"Family values" is shorthand for the moral understanding that we owe duties to those we know and love. And "recovery of moral understanding cannot be merely a means to social restoration: It must be its own end, though it will produce social consequences." The sanctity of marriage was respected until recent years because men and women recognized that it is wrong—not merely counterproductive in the long run, but wrong—to leave one's spouse and children in the name of "personal growth" or career advancement or new love. Such selfish acts are wrong because they subordinate our higher natures, that part of us which cherishes our affectionate attachments, to our base appetites and so undermine our character and our society.

Mr. Kirk is at times too quick to find fault with those who seek economic growth, and too slow to see ways in which economic and technological advances can be turned to conservative ends. Economics is an inescapable part of life. If a community's products and ways of working are not changed as necessary to keep them economically viable, that community—however virtuous—will die. Yet Mr. Kirk's central point is one we forget at our peril: "The 20th-century conservative is concerned, first of all, for the regeneration of spirit and character—with the perennial problem of the inner order of the soul, the restoration of the ethical understanding and the religious sanction upon which any life worth living is founded."☎

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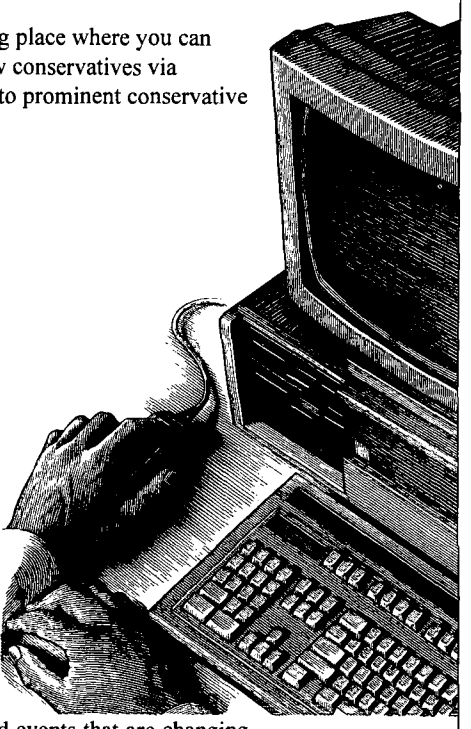

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From Sorry to Surry

Family and Faith Revive a Poor Rural Community

Brian Jendryka

Twenty–five years ago, it was called Sorry County. The education system was in shambles, the area was economically depressed, and black residents—64 percent of the county's population—were shut out of the political process. Today, in Surry County, Virginia, 90 percent of high school graduates go on to further education or training after high school, the community has new medical and recreation centers, and blacks hold a majority on the school board and the county board of supervisors. What happened? Surry County residents decided to take charge of their lives, and the result has been a vastly improved school system, a low crime rate, a county where the citizens respect one another, and a place where the family and the community come first.

A short ferry ride across the James River brings visitors to Surry, a rural, wooded county in southeastern Virginia. Dotted with cotton fields, Surry resembles a typical county in the Southern "black belt." The population has remained stable at 6,000 residents for over 200 years. Surry residents are hard–working, religious, and mostly black. Until 1971, they lived in what Don Anderson, founder of the National Association for the Southern Poor, calls the "apartheid south": They had a majority of the population, but no representation in the government.

The Assembly Concept

Mr. Anderson's organization, which he founded in 1967, is responsible for promoting a self–help style of governing through a Jeffersonian–based representation structure called an assembly. To promote local, grassroots politics, Thomas Jefferson favored subdividing counties into wards, where "each small ward would thus become a republic within itself, and every man in the state would thus become an acting member of the common government." Such a system of local government compels citizen involvement. Indeed, this notion of representation and self–help, embodied in the assemblies, has helped many Southern counties, including Surry, get back on track. Assemblies now help mobilize the poor in 41 counties in North Carolina, South Carolina, Georgia, and Virginia. "The wit of man cannot devise a more solid base for a free, durable and well–administered republic," Jefferson said.

The Surry County Assembly, the first and most successful of its kind, began in 1968. At the time, the scene for blacks in Surry County was a common one in the impoverished south: inadequate housing, hunger, unsanitary conditions and widespread poverty. Houses with running water were the exception, not the rule.

The Assembly helped solve the county's biggest problem—the disorganization and disjointedness of the poor. Originally conceived by Mr. Anderson in the 1950s, the assembly works by dividing a community's adult population into conferences of 50 people. Each conference is represented by one person, who works with a committee of seven people. Each of these seven people represent seven additional community members. Thus, a community of 5,000 adults has 50 representatives, with each person working with no more than seven other people. The result is the mobilization of a large group of people, each a part of a very small constituency.

"The Assembly brought everyone to a central place. It brought all those minds together," says Charles Pettaway, one of the county's leaders at the time, and the Assembly's first president. At its peak in the mid–seventies, the Surry Assembly consisted of 27 conferences, representing almost 1,500 adults, nearly half the county's adult population. Galvanized by poor schools and lack of representation in the county government, the Assembly went to work. After intense voter–registration and organization efforts, the assembly was able to elect a black majority to the county board of supervisors in 1971. As a result, Surry's majority poor now had political advocates in office for a range of social issues. Says Mr. Pettaway: "We moved this county."

Educational Revolution

The first thing they moved was the deficient school system. At the time, there were two public high schools, one for black students and one for white students. In 1964, Mr. Pettaway won the right to have his children go to the white school, which enjoyed numerous academic and physical advantages (among them more qualified

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Brian Jendryka

"The people here are not wealthy, and they've chosen to put their money in education ...There's an expectation of excellence coming from the administration and the school board."

teachers and a better gym and cafeteria) over its black counterpart.

Another step in this direction was to bring in Charles Penn as superintendent in 1977. When he arrived, Mr. Penn found an education system badly neglected. Though blacks had won the right to go to the white public high school, parents of the white students had transferred their kids—and money—out of the public schools and into a local private institution. The superintendent of schools, in charge of both the public schools and the local private academy, gave white students scholarships drawn from public school money. As a result, the majority of public funds were being spent on white students in the private school, leaving black students in the public school with leaky roofs, broken boilers and other calamities. The Surry public school system was spending just $169 per student, compared with a national average of $1,638.

At the time, Surry County children were testing well below average on nationally normed tests—from the 17th to 27th percentile on the elementary level, and the 10th to 17th percentile on the secondary level. Today, the students are testing from the 53rd to 71st percentile on the elementary level, and the 49th to 58th percentile on the secondary level.

"I remember the first time our kids tested well," says Mr. Penn. "[The state] called me up from Richmond and said it was impossible. So I asked them to come, bring another test and test our children, to validify the results." They did. "The kids did better on that test than on the one we had given them."

What turned the schools and the test scores around? First, spending increased dramatically after the arrival of a state-funded nuclear power plant in the early 1970s. Currently, the plant contributes over $7 million to the county's $15 million budget, largely through tax revenues, $10 million of which goes to the schools.

Two more important steps focused on the quality of instruction—upgrading the staff and reducing the student–teacher ratio. A system that once had a dozen uncertified teachers now has a majority of its staff with master's degrees. There are also more teachers: the student–teacher ratio has dropped from 45–1 to 17–1. The third element, though not as easily measurable, has proved equally important—Mr. Penn and his philosophy of what produces academic excellence.

Mr. Penn has always emphasized careful preparation and continued high expectations. When he first arrived, the system spent $6,000 to $8,000 on a diagnostic test for each student in the school district. The result, says Penn, was a prescriptive evaluation of not only the children, but of the school system. "We invested in that because we wanted to understand where we were so we could figure out how to get where we needed to go," says Penn. "Most systems duck testing, but the reality is, that's what you need to do."

Mr. Penn also pushed teacher education and preparation. In the late 1970s, less than five percent of Surry teachers had masters degrees. Now, 65 percent do. Many received their degrees with the help of the school system, which not only helped bring classes from Virginia State University to Surry, but also pays for half of teacher education costs. "I try to stress that proper preparation is three-quarters of success," says Mr. Penn. "Education is not drudgery, it's an opportunity. And you have to be ready to seize on that."

By improving teaching conditions, Mr. Penn has been able to attract better caliber teachers, teachers who share his high expectations. When Mr. Penn expresses his discontent with the system's 93 percent student attendance rate for one month—saying that anything below 95 percent is unacceptable—few are surprised, and all are in agreement.

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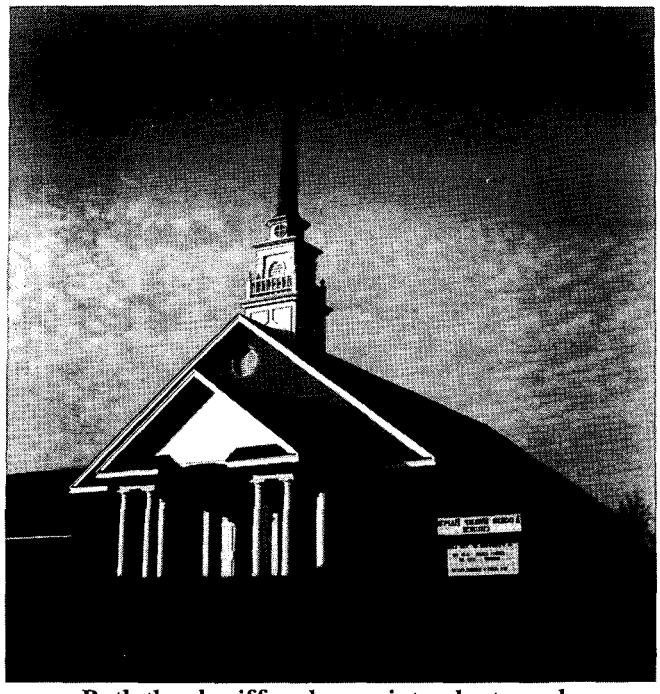

Brian Jendryka

Both the sheriff and superintendent speak frequently at churches, no small task considering the county of 6,200 people has 70 congregations.

"[At Surry] they concentrate on pedagogy," Anderson says. "Mr. Penn has inspired teachers. They stay after school because they want to. Why can't other places be like that?"

School Board President Stephanie Headley says that early intervention has also helped boost student achievement. Among other programs, the district has a reading specialist that works one-on-one with at-risk children in the kindergarten and first grade. She also credits Penn with instilling a new attitude in the school. "Every child is important to him," says Headley. "He works 24 hours a day. He's always available to everybody—he has an accessibility that's rare anywhere. Parents that have to work early in the morning call him at four in the morning." Mr. Anderson agrees: "There are over 1,200 students, and he knows every single one of them by name."

Community Commitment

Quality teachers and committed administrators, however, are not enough to ensure a good education. The final, and most significant ingredient is strong family life—a commodity in healthy supply in Surry. "They built on what was already there: strong family ties, deeply religious people," says Mr. Anderson.

Family and community commitment to education are clearly expressed through the assembly, which has been behind the superintendent and the schools from the beginning. "The assembly helped us in the sense that we knew that they were there to support us in the very things that needed to be done in the school system," says Mr. Penn. "We told them we needed bleachers for the high school—they were out there; we told them we needed band uniforms, we told them we wanted to lower the book rental rates. They were always at the meetings to be sure that the focus stayed on the things that we needed to focus on. They went to the polls and voted in people who made sure education remained a priority." "In the adjoining county, they have a tremendous football program, but when my academic team beats [their academic team] 290–10, the 40–0 football score dissipates quickly," Mr. Penn adds.

Today, the Surry school system spends $6,000 per student, has 90 percent of its white students back from the academy, and has a black–white ratio of both teachers and students resembling that of the community. According to Assistant Superintendent Alvin Wilson, the community has made a tremendous investment in the schools, something he realized when he came here as an assistant principal in 1973. "You do feel rather honored to be put in such a position of trust. The people here are not wealthy, and they've chosen to put their money in education," he says. "There's an expectation of excellence coming from the administration and the school board."

School activities form the center of social and community life in the county. Students participate in a wide variety of after–school activities, as well as in–school programs like band or the school's ROTC program, which is nationally recognized. Cadet Aaron Pierce is Captain of the school's ROTC unit, the Cougar battalion. As a result of his involvement with the program, Mr. Pierce has won a full four–year ROTC college scholarship. Surry County High School, he says, has done a good job in preparing him for college. "It's a family environment," he says. "Everyone gets along with each other. The teachers will help us at any time with schoolwork."

Surry County schools also stress character as well as achievement. "We emphasize that attitude has a definite impact on altitude," says Mr. Penn. "I'd rather see a youngster that's a good "B" stay at a good "B" and be a decent person than strain to be an "A" and become an indecent person."

Civic Service, Social Healing

The community has been active on other fronts. In 1975, the Assembly helped winterize 300 homes with storm windows and insulation. The Assembly is also responsible for building a medical clinic as well as a recreation center for the county. These steps have helped galvanize the community, ease racial tensions, and open up new opportunities for blacks and whites.

"When I first started out in Surry, the only black in the courthouse was the lady that cleans it," says Thomas Hardy, the Assembly's current president. Now, there is a mutual respect between the races. "Attitudes have changed. People have accepted people for who they are and not what they are," says Sheriff H.D. Brown.

"I think there's a hard–core of white citizens who would always like to take us back," Gammiel Poindexter, the commonwealth attorney, says. "But there are also many, many examples of white citizens in the county who see this government as being very well–run and doing a lot of good things for the community in the area of schools, recreation, and police enforcement." Even Mr. Pettaway, who took the school system to court over civil

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rights 30 years ago, is pleased with the change. "We don't need a civil rights organization in Surry County anymore," he says. "We don't need it. We police ourselves."

With this mutual respect has come accountability, particularly in government: At least one fraudulent city official has been replaced by the people recently. According to Pettaway, the attitude conveyed to elected officials by their constituency is simple: "Either you carry out our wishes, or you pack your stuff. Don't let this job go to your head, because the same way you got in, we can take you out. Remember that."

Peace Through Community Service

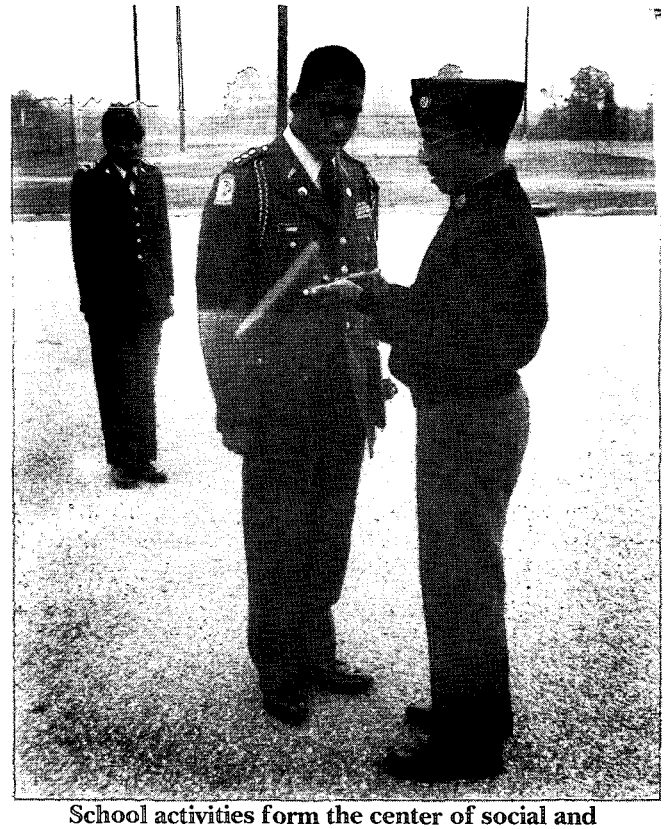
Community pride and accountability have also kept crime down in Surry County. The county hasn't had a jail since the 1960s: only a two-cell lockup remains. There is little violent crime in Surry County: no murders and only six rapes and ten robberies since 1988. Most of the serious problems Sheriff Brown and his seven-officer staff encounter are from out-of-towners. While he admits some of this has to do with the county's unique features—low population, no bars, and no major highways—he feels that a lot of it has to do with proud, moral people looking out for each other and their community. Citizens not only keep the sheriff informed of suspicious or criminal behavior, but also each other. If a child gets in trouble, a parent usually hears about it first from neighbors and then the sheriff. The sheriff works with the parent and, if necessary the social service department, to prevent the child from further delinquency.

When the school was recently vandalized by someone from another county, the case was solved within a week because of input from the community. The secret? "Having a good relationship with the people that put you in office to do the job. Good public relations is one of the best things we have. If a citizen calls here and needs an officer, a lot of times they'll call and want the sheriff. And I'll go. I don't just send a deputy. I think that's been a good influence," he says. "People feel like they can rely on a public official to do what they want them to do, to get the job done."

The justice system in Surry County also helps keep crime low, according to Sheriff Brown. The county has tough juvenile and district judges who are not afraid to make an example of someone. Punishment is swift and severe, and usually comes in the form of community service for non-violent crimes. Twenty hours of hard labor is standard for a speeding ticket, 100 hours plus fines for breaking and entering, even for juveniles. "We don't cut them any slack once we get them working," Mr. Brown says. Parents are usually more than cooperative when dealing with the courts, which helps the courts and sheriff's office get to people when they're young; first-time offenders often can have a charge erased from their record if they work it off and stay out of trouble.

Mrs. Poindexter, who works as the commonwealth attorney as well as in private practice, sees things from both sides of the docket. "I believe—and most people in Surry believe—there is a justice and equality in the courts and the community."

Confidence in law enforcement and school officials has been built over the years. The offices of the sheriff and the superintendent have good relationships with each other and the community. Both speak frequently at churches, no small task considering the county of 6,200 people has 70 congregations. Mr. Penn says he "wouldn't dare turn down" a speaking engagement at a church. And the churches and their leadership are also good to him. "The church enhances the family here," says Mr. Penn. "We tend to work [problems] out by working with the churches," he says. "If I run into a problem with a certain kid, I'll go to the preacher. A parent will listen to a preacher when they won't listen to me."



Brian Jendryka

School activities form the center of social and community life. Students participate in programs like the ROTC, which is nationally recognized.

Kermit Watson is an associate minister at Mt. Nebo Baptist Church, one of Surry County's largest congregations. There he works with young men in a weekly church group. Watson says that churches in Surry are effective because they try to get at the root of a problem. "Every child is a product of the home," he says. By working with families and attempting to change attitudes and behavior as early as possible, he hopes to avoid the same problems in future generations. He also feels that the church is combating issues like teen pregnancy and single parenthood better by talking about sex to young people.

"The assembly's philosophy is 'nobody can help you better than you can help yourself.' What it is doing is helping folks in those communities help themselves," says Mr. Penn. "And you'd be surprised how strong some of these folks have gotten since they've gotten a little self-confidence and positive direction." The work of the assembly in the 1970s, he says, "is being harvested now in the attitude of the school board, the attitude of the board of supervisors, and the success of the kids."

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The Living Dead

What the Dickens Are College Students Reading?

Reneé Swanson

There's a dirty little secret in the multicultural halls of American universities: dead white males are alive and well. Although many contemporary African-American, Latin, and Asian authors are being introduced, a close look at college reading lists and publishers' best sellers reveals that classics remain an essential part of the English curriculum at most schools and a top choice for book buyers.

Auburn University, Harvard University, Mt. Holyoke College, Oral Roberts University, and Smith College are just a few of the hundreds of colleges where Shakespeare, Hemingway, Hawthorne, and Homer still are required reading. In 1991, *Reading Lists for College-Bound Students* was published as the definitive answer to what books are most recommended by America's top colleges—and the answer was classics.

What are the classic texts that remain popular today? Thomas J. Slakey, dean of St. John's College, a school whose curriculum is organized around the study of classic texts, says that the so-called great books are "those texts that over time have proved best at forcing their readers to rethink fundamental questions, and at helping them understand themselves and the world around them." Adam Bellow, senior editor of Macmillan Free Press, says that American classics like *Moby Dick* and *The Scarlet Letter* are the "mental furniture" of American life. They "convey a sense of American civilization in its formative stages and are of great moral and literary importance," says Mr. Bellow.

Classics appeal to Americans of all ages and have become the mainstay of the publishing business. Many publishing houses, such as Viking Penguin, W. W. Norton, and Random House, are responding to the high demand for classics by publishing new collections of older titles. W. W. Norton, for example, will be adding Charles Dickens's *Great Expectations* and selected essays of John Locke to its line of Critical Editions in spring 1994. Also at W. W. Norton, such popular titles as Kate Chopin's *Awakening* and Joseph Conrad's *Heart of Darkness* are being released in their second and third editions. At *Reader's Digest*, the World's Best Reading Series, which is composed solely of classics, is in its 10th year of publication and still gaining in popularity.

Dead Poets' Society

The Library of America, created in 1979 with support from the National Endowment for the Humanities, is dedicated solely to publishing America's greatest writers: Ralph Waldo Emerson, Willa Cather, Stephen Crane, Herman Melville, Jack London, Richard Wright, and Flannery O'Connor. Hanna Berkovitch, editor in chief of Library of America, says that in choosing classic American titles, she looks for "an established reputation, a work that has stood the test of time." And she only publishes authors who are dead. Sixty-seven titles have been published in the series so far, and the top-selling authors include Abraham Lincoln, Nathaniel Hawthorne, and Walt Whitman. There is a literal mass market for classics: *Flannery O'Connor: Collected Writings* topped the *Chicago Tribune* local best-seller list in fall 1988, and *Abraham Lincoln: Speeches and Writings* has over 100,000 copies in print.

Despite the robust popular sales of the classics, many insist that multicultural titles represent the wave of the future. Gary Carey, editor of Cliffs Notes—the company that produces the yellow-and-black study guides hidden in student book bags—says that "education is going multicultural everywhere." Carey believes that the new multicultural titles soon will move into the top 100-selling titles, displacing many classic texts.

So far, however, the 10 top-selling titles at Cliffs Notes are all classics. *The Scarlet Letter*, *Hamlet*, and *Macbeth* have been the three best-selling titles since Cliffs Notes began in 1958. The contemporary multicultural titles are at the bottom of the sales list. (See table of top-selling Cliffs Notes titles.)

The Best-Selling Bible

Containing poetry, history, humor, theology, and every theme from grand infidelity to quiet heroism — the Bible is probably the only book that suits nearly everyone. According to a survey of Doubleday's Book-of-the-Month Club members, the Bible is the book that has most influenced readers' lives. Currently published in over 3,000

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editions in the United States, the Bible is undoubtedly the all-time best-selling book. The Christian Booksellers Association estimates that over 900 million copies of the King James version alone have appeared since its first printing in 1611. Thomas Nelson Inc., one of the largest publishers of Bibles in the United States, distributed six-and-a-half million Bibles and scriptures in 1992. If Bible sales were counted with the rest of the national best sellers, John Grisham or Michael Crichton would have some real competition. (See table of Doubleday's "25 books that shaped readers' lives.")

Classic texts such as these continue to be popular for the same reasons that they seem to be eternally relevant: they speak to us in a way that forever changes the way we look at our lives. When William Faulkner accepted the Nobel Prize in 1950, he said: "The poet's, the writer's duty is to help man endure by lifting his heart, by reminding him of the courage and honor and hope and pride and compassion and pity and sacrifice which have been the glory of his past. The poet's voice need not merely be the record of man. It can be one of the props, the pillars to help him endure and prevail."

25 Books That Have Shaped Readers' Lives

A List From The Center for the Book
The Adventures of Huckleberry Finn, by Mark Twain
Atlas Shrugged, by Ayn Rand
The Autobiography of Benjamin Franklin
The Autobiography of Malcolm X
The Bible
The Catcher in the Rye, by J.D. Salinger
Charlotte's Web, by E.B. White
Democracy in America, by Alexis de Tocqueville
The Diary of a Young Girl, by Anne Frank
Gone With the Wind, by Margaret Mitchell
The Gulag Archipeligo, by Aleksandr Solzhenitsyn
Hiroshima, by John Hersey
How to Win Friends and Influence People, Dale Carnegie
I, Claudius, by Robert Graves
Invisible Man, by Ralph Ellison
The Little Prince, by Antoine de Saint Exupery
The Lord of the Rings, by J.R.R. Tolkien
1984, by George Orwell
Roots, by Alex Haley
The Secret Garden, by Frances Hodgson Burnett
Silent Spring, by Rachel Carson
To Kill a Mockingbird, by Harper Lee
Treasure Island, by Robert Louis Stevenson
Walden, by Henry David Thoreau
War and Peace, by Leo Tolstoy

Source: Survey of Doubleday Book-of-the-Month Club and U.S. Library of Congress

Top 25 Best Selling Cliffs Notes

1. *The Scarlet Letter*, Nathaniel Hawthorne
2. *Macbeth*, William Shakespeare
3. *Hamlet*, William Shakespeare
4. *The Odyssey*, Homer
5. *The Adventures of Huckleberry Finn*, Mark Twain
6. *Canterbury Tales*, Geoffrey Chaucer
7. *The Iliad*, Homer
8. *To Kill a Mockingbird*, Harper Lee
9. *A Tale of Two Cities*, Charles Dickens
10. *The Great Gatsby*, F. Scott Fitzgerald
11. *Wuthering Heights*, Emily Bronte
12. *Lord of the Flies*, William Golding
13. *The Crucible*, Arthur Miller
14. *Othello*, William Shakespeare
15. *Oedipus Trilogy*, Sophocles
16. *Great Expectations*, Charles Dickens
17. *The Grapes of Wrath*, John Steinbeck
18. *Beowulf*
19. *Julius Caesar*, William Shakespeare
20. *King Lear*, William Shakespeare
21. *Jane Eyre*, Charlotte Bronte
22. *Romeo and Juliet*, William Shakespeare
23. *The Catcher in the Rye*, J.D. Salinger
24. *Pride and Prejudice*, Jane Austen
25. *The Republic*, Plato

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Pre-Law Prerequisites

A Guide to the Post-Socialist World

Michael DeBow and Roger Clegg

It has been four years since political and economic revolutions began to unravel the Eastern Bloc. The vindication of democratic forms of government and free-market economies, over the tragic failures of statism, could not be clearer. One might have expected the collapse of communism to have a significant effect on U.S. politics, leading us to reconsider and restrain the seemingly inexorable growth of government in our own country.

Obviously, this has not happened. Instead, the "post-socialist" American political environment is pregnant with contradiction. For on the one hand, nearly everyone acknowledges the superiority of private-property, market-driven economic systems. But at the same time, the political process in the supposedly triumphant societies of the West is resulting in larger and larger governments and tax burdens, and more extensive regulatory controls. As Nobel laureate James Buchanan puts it, socialism is dead, but Leviathan lives. We submit that a serious student of law and the American legal system must be able to grapple with this central paradox of our time.

Nonetheless, many students will graduate from universities for which the collapse of communism was and remains a non-event. The traditional pre-law reading lists suffer from a similarly profound gap: They do not include readings to help students understand the political and economic systems in which law and legal practice are embedded. We offer a reading list to equip students with the tools to understand the post-socialist political economy in which they will live and work.

Markets or Politics

Our political economy constantly chooses between two alternatives: leaving an area of human activity to the private marketplace, versus converting the activity to one dominated by public, political dialogue and controls. Although our governing institutions presuppose a limited federal government and a free-market economy, the administrative state built on this foundation is, increasingly, neither limited nor laissez-faire in its ideology.

People in the newly liberated countries of the former Soviet empire face the choice between markets and politics in its starkest form. But those of us in the West also see choices between markets and politics debated on a daily basis. With the advent of the Clinton Administration, this debate has taken on an increased urgency, as more and more of what was once in the private sector becomes the target of collectivization. Unfortunately, David Hume's dictum, "[i]t is seldom that liberty of any kind is lost all at once," is likely to take on new significance over the next few years.

The Need for a List

To understand this environment, a student must understand the markets-versus-politics debate. He or she must also appreciate that the failure of socialism was not only economic, but political and moral. The prerequisite for such an understanding is a thorough grounding in the principles of private property, freedom of contract, and limited government—and their critical importance to our way of life.

Unfortunately, many undergraduate courses of study fail to provide much help in this regard. Law students who majored in the humanities—a significant number—may have avoided taking any courses in economics or political philosophy. Many law students with social science backgrounds have encountered professors indifferent or hostile to the lines of inquiry necessary to understand the consequences of substituting politics for markets. Even law students with business backgrounds often have had no systematic introduction to the comparison of markets and politics.

Traditional pre-law reading lists do not address this deficit. Consider the list of "Prelaw Readings: Books of Interest" contained in the 1993-94 edition of *The Official Guide to U.S. Law Schools*, published by the Law School Admissions Council (LSAC). The four-page list contains 117 titles divided into four categories, but offers little real guidance to the pre-law student. In what reads like a parody of unstructured undergraduate education, the *Guide* explains that many of its titles "are not necessarily

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Some observers see law professors as out of touch with American life.

recommended" to the student, and explains further that "[i]t will be up to [the student] to search out the titles that pique your interest and make your own determination of their worth."

In addition to this do-it-yourself approach, the LSAC list (and others) overemphasizes the idea of law as a tool for social engineering, and downplays (or ignores) more conservative views of law as furthering private property rights and limiting government. This is particularly true with respect to constitutional law. The reading list's emphasis mirrors the tendency of entering law students to overestimate the importance of "con law" to their understanding of other areas of the law; indeed, many seem to think that constitutional law is the foundation for all other areas of law—thus confusing public and private law, as well as the public and private sectors.

The Ideology of Law Schools

The student interested in the clash between politics and markets—between the public and private sectors—should begin his self-education *before* beginning law school for two reasons. First, time is short once one is in law school. The conscientious law student works from day to day, assignment to assignment, through a flood of law and law-related materials. Time for reflection on the material is, sadly, quite limited.

Second, many law school faculty members are not particularly interested in exposing their students to the pro-market side of the markets-versus-politics debate. It is no secret that the dominant ideology in U.S. law schools is left/liberal. Yale law professor Stephen Carter, who describes himself as slightly left of center, observed in 1991: "[B]oth branches of the legal profession—the bar and the academy—are to the left of the American public." In blunter terms, Harvard Law School professor Mary Ann Glendon recently declared the "legal academic establishments" to be "woefully out of touch with American culture and political life."

The rise of feminist legal thought and the neo-Marxist "critical legal studies" movement, along with the recent adoption of speech codes by some law schools, provide the most exotic examples of this truth. But relatively few law professors actively engage in far-left activity. Instead, most are better characterized as members of what University of Minnesota law professor David Bryden calls the "respectable left"—the type of liberalism identified with the activist elements of the Democratic party.

Thus, the same law faculties now engaged in a quest for "diversity" in their hiring show a remarkable lack of diversity of political/economic philosophy and opinion. Consider Professor Bryden's further claim, made in the Spring 1991 issue of *The Public Interest*:

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> How many conservatives teach politically controversial subjects in our major law schools? If we are talking about orthodox conservatives of the *National Review* type, the answer is that our leading schools have hardly any. In law-school terms, a "conservative" is anyone who has publicly dissented from any tenet of liberal orthodoxy—for instance, by expressing doubts about judicial activism. Even by that exceedingly latitudinarian definition, most of the top faculties have only a couple of outspoken conservatives.

Much evidence supports this view of the narrowness of law faculties. In 1991, the *Washington University Law Quarterly* published the results of a public opinion poll of law students, funded by the American Bar Association. The poll showed the disturbing negative effects of "political correctness" on law students' willingness to engage in certain kinds of legal and political debates. It also contained the following accounts:

> The written comments to the Law Student Survey indicate that students do not perceive faculties as politically diverse. Many students commented that faculty tend to fall on the far left end of the political spectrum. Anecdotal evidence also suggests a lack of political diversity. One professor, who prefers not to be identified, tells of talking with the associate dean of a law school, who, after lauding the diversity of the school's faculty, conceded that none of the forty faculty members voted for the winning candidate in the 1988 presidential election. The same professor reports that during a visitorship at a law school in a Republican-leaning state, he was surprised to learn that in a faculty of nearly thirty, there was not a single Republican.

In addition to such informal observations, one can glean hard evidence of the extent of the legal professoriate's leftism by looking at the fight over Robert Bork's nomination to the Supreme Court. One of the country's most brilliant legal minds, Judge Bork had established his credentials as a conservative defender of limited government, judicial restraint, and original intent—legal principles that tend to stymie the liberal impulse to legislate through judicial fiat.

THE TRADITIONAL PRE-LAW READING LISTS DO NOT INCLUDE READINGS TO HELP STUDENTS UNDERSTAND THE POLITICAL AND ECONOMIC SYSTEMS IN WHICH LAW AND LEGAL PRACTICE ARE EMBEDDED.

As University of Texas law professor Lino Graglia aptly put it, law professors were "overwhelmingly—one could almost say hysterically—in opposition" to Judge Bork's confirmation. Of the nation's 5,363 law professors, an amazing 1,839 "voted" on the Judge Bork nomination, most by signing letters of support or opposition. Of them, 1,742—or 94.7 percent—opposed Judge Bork, and only 97, or 5.3 percent, supported him. Thus, the ratio of actively anti-Bork to pro-Bork law professors was approximately 18 to 1. It is important to stress that this opposition to Judge Bork extended up and down the law school pecking order.

Thus, law students who want to explore the classical case for markets over politics will likely find few kindred spirits among their professors. Self-help is necessary. Study of the titles that follow will introduce students to a number of first-rate scholars—many of whom are "outside the mainstream" of American legal academics, in the same way Judge Bork was deemed "outside the mainstream" of the current legal academy. This guide to the conservative legal counterculture should serve the student well as he or she enters law school and, ultimately, practice.

THE LIST

Most of the books and articles on our list are short and very readable, require little or no technical background, and address both the economic and political principles that the post-socialist lawyer must appreciate. Most of the books are available in inexpensive paperback editions.

Our list can be used by students in the summer prior to their first year in law school, or by undergraduates at an earlier point in their studies. Indeed, any serious student who works through this list should gain a good, basic social science education for the post-socialist era.

I. Law 101 The classic book for beginning students of the law is Edward Levi's *An Introduction to Legal Reasoning.* We predict that Richard Epstein's forthcoming book, *Simple Rules for a Complex World,* will eventually enjoy a status similar to Levi's. Levi and Epstein provide indispensable introductions to the genius of the traditional common law system. Anyone serious about understanding the U.S. legal system should read these books.

A good article-length discussion of some of the themes covered by Levi and Epstein is Justice Antonin Scalia's 1989 Holmes Lecture, "The Rule of Law as a Law of Rules." The work of two European scholars greatly repays serious study. Bruno Leoni's *Freedom and the Law* is indispensable. Somewhat more demanding, Nobel laureate Friedrich Hayek's multi-volume *Law, Legislation and Liberty,* particularly Volume 1, *Rules and Order,* is a masterpiece.

II. Economics 101 Law students must have some familiarity with basic microeconomics—the study of the marketplace behavior of business firms and consumers, premised on self-interest as the primary determinant of most human action.

Students with little or no background in microeco-

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nomics should read the late Henry Hazlitt's classic text, *Economics in One Lesson*, or a more recent treatment by James Gwartney and Richard Stroup, *What Everyone Should Know About Economics and Prosperity*. James Doti and Dwight Lee, *The Market Economy: A Reader*, contains excerpts from the most significant writings in classical liberal thought and market analysis. Its inclusion of Frederic Bastiat's "Candlemakers' Petition" alone is worth the price of the book. It also contains an excerpt from Friedrich Hayek's 1945 article, "The Use of Knowledge in Society," which we recommend that the student read in its entirety.

As a case study of the application of microeconomics to the "real world"—or, at least, the world he or she is about to try to enter—the student should look at two recent articles that try to sketch the business realities of the legal profession: "Why Are There So Many Lawyers? Perspectives on a Turbulent Market," by Richard Sander and Douglass Williams, and "The Market for Lawyers," by Sherwin Rosen.

III. Applied Economics: "Law and Economics" The economic approach to law offers the student a map to navigate the maze of the law school curriculum.

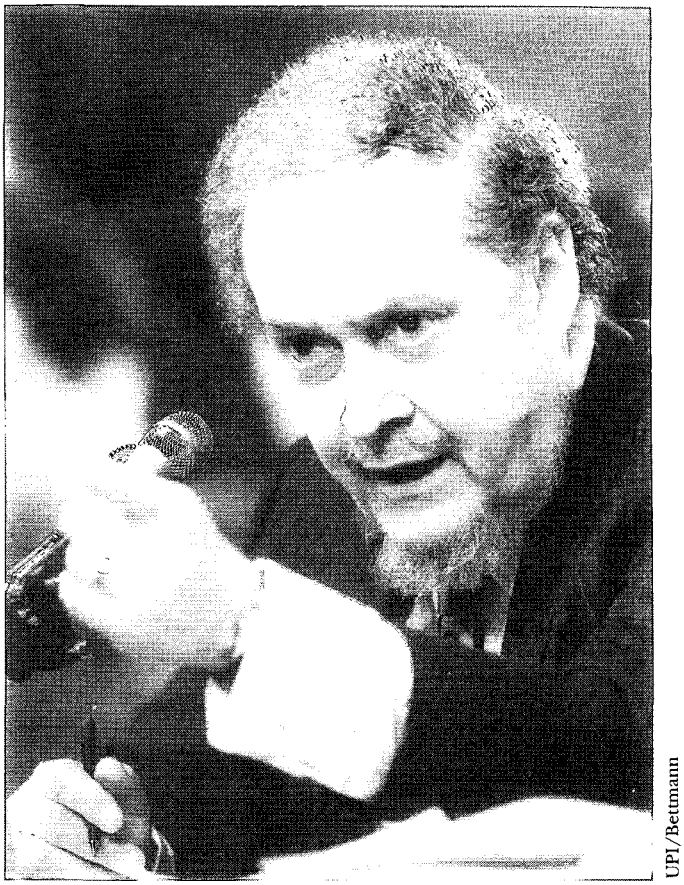
The use of microeconomics to understand the basic areas of common law—property, torts, and contract—is brilliantly displayed in Mitchell Polinsky's short textbook, *An Introduction to Law and Economics*. In addition, Polinsky offers very clear economic analyses of law enforcement decisionmaking (chapter 10) and litigation (chapter 14) that will shed much light on the legal system for the beginning student. Polinsky assumes that his reader has no more than a bare acquaintance with the key concepts of microeconomics, and does not use math any more complicated than simple arithmetic.

Law students and practicing lawyers can benefit from a systematic understanding of strategy and strategic behavior. A very good (and not mathematically demanding) introduction to the area known as "game theory" is Avinash Dixit and Barry Nalebuff's *Thinking Strategically*. Their explanations of such concepts as "decision trees" and the "prisoner's dilemma" are very useful to attorneys in thinking about such puzzles as litigation and negotiation strategy and the likely pattern of government enforcement activities.

After Polinsky and Dixit/Nalebuff, students may wish

LAW STUDENTS WHO WANT TO EXPLORE THE CLASSICAL CASE FOR MARKETS OVER POLITICS WILL FIND FEW KINDRED SPIRITS AMONG THEIR PROFESSORS.

to turn to other, more technical treatments of law and economics. As a first step, we suggest Judge Frank Easterbrook's article "The Court and the Economic System." Ultimately, the student should aim for a level of understanding that enables him to use Judge Richard Posner's



UPI/Bettmann

Judge Bork had established his credentials as a conservative defender of limited government, judicial restraint, and original intent.

The Economic Analysis of Law, an encyclopedic treatment of legal subjects using economic reasoning, in connection with his law school class preparation and review.

IV. Applied Economics: Public Policy and "Public Choice" Most public policy debates can be productively analyzed using microeconomic reasoning. The classic treatment is Milton Friedman's *Capitalism and Freedom*. Given its age—it was first published in 1962—this book's discussion of such issues as school vouchers and welfare reform demonstrates the durability of economic analysis in addressing public policy issues.

One of the most important developments in economics in the last 40 years is the extension of microeconomic analyses to questions of government and politics. This branch of economics, pioneered by scholars such as James Buchanan and Gordon Tullock, is known as "public choice." It is increasingly clear that lawyers should understand the rudiments of public-choice theory. A very good introduction to this subject is contained in *Failure and Progress*, a recent book by Dwight Lee and Richard McKenzie. Chapter 7 sets out, in a very short space, the basic public-choice ideas that predict the seemingly inexorable growth of government and its attendant inefficiencies. In brief, public choice explains government growth by focusing on the efforts of small, well-organized interest groups to seek benefits (or "rents") from government, at the expense of the public at large. A student who understands this analysis of "rent-seeking" behavior has a

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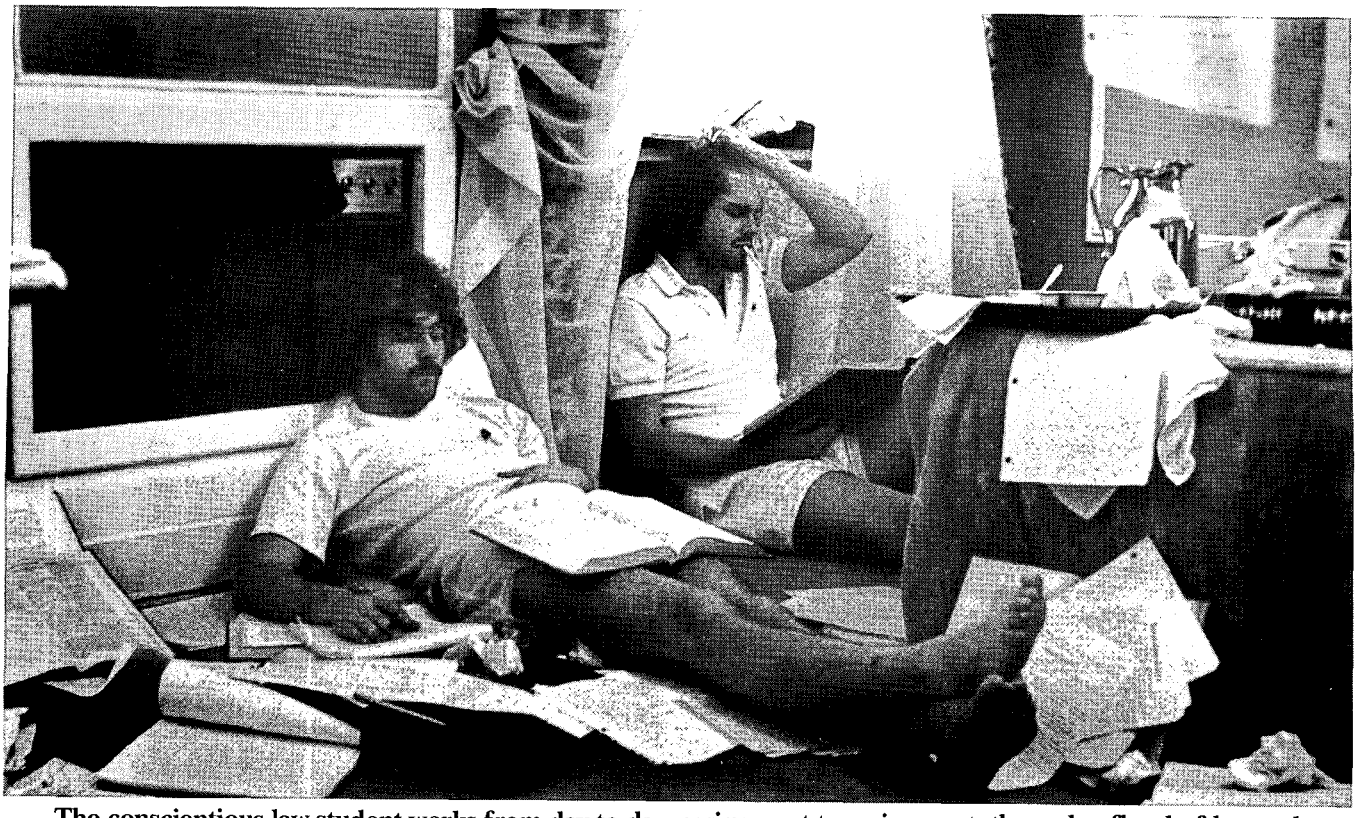

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The conscientious law student works from day to day, assignment to assignment, through a flood of law and law-related materials. Time for reflection on the material is, sadly, quite limited.

very long head-start over others in understanding the dynamics of government in the post-socialist era.

In a political environment dominated by rent-seeking, what is the outlook for the ideals of limited government and free markets? In a recent article, "The End of History and the New World Order: The Triumph of Capitalism and the Competition Between Liberalism and Democracy," Jonathan Macey and Geoffrey Miller argue that "the central historical question of the twenty-first century may well be whether capitalism can survive the interest-group proclivities that threaten private property rights in advanced countries." Their prediction of the outcome of the markets-versus-politics tug-of-war is rather grim:

> [I]n most of the world's established democracies, particularly the United States, liberal defenders of property rights are fighting a losing battle to prevent the public sector, where democratic values find expression, from destroying the private sector, where the liberal value of free economic activity finds expression.

For Macey and Miller, the fundamental issue we face in the post-socialist world is "what sort of regime will best protect economic exchange and economic rights against the ravages of special interests . . . ."

V. Ideological Visions, Public Policy, and Law If we had to recommend only one book for a prospective law student seeking to understand the nature of legal and political debate in this country, we would unhesitatingly name *A Conflict of Visions*, by Hoover Institution economist Thomas Sowell. Sowell makes the case that there are two perspectives on human nature: one that it is essentially "unconstrained" (and thus subject to manipulation via various schemes of social engineering) and one that it is "constrained" (and thus resistant to the perfecting efforts of the government). Sowell writes very clearly, and introduces the reader to the pantheon of classical liberal thinkers (as well as the lot on the other side of his divide). For another view of this aspect of human nature, read Karl Brunner's article, "The Perception of Man and the Conception of Society."

After reading Sowell and Brunner, the student will probably be interested in how the constrained and unconstrained visions manifest themselves among law teachers. He should take a look at two short articles by University of Chicago law professors: Michael McConnell's "Four Faces of Conservative Legal Thought," and Mary Becker's "Four Faces of Liberal Legal Thought." These two pieces serve as a sort of field guide to law professors' ideologies.

In case the student has any doubt that the far left wing of the legal professoriate is indeed pretty far to the left, he should check Robert Clark's address entitled "In Critical Legal Studies, the West Is the Adversary." Clark should know: he is now the dean of the Harvard Law School, which houses a significant number of "Crits."

Neoconservative thinkers are an important intellectual force on a number of law-related issues (such as racial quotas and the unintended effects of government regulation), and are especially interesting because they have migrated from the unconstrained to the constrained view of human nature. The godfather of the neocons is Irving Kristol. *Policy Review* recently published an excellent trib-

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ute to him, "Battler for the Republic," and some of his best work is collected in *Reflections of a Neoconservative: Looking Back, Looking Forward.*

Students interested in the connection, if any, between contemporary moral philosophy and the law should look first at Arthur Leff's article, "Unspeakable Ethics, Unnatural Law," then at Phillip Johnson's more recent "Nihilism and the End of Law."

VI. Constitutional Law There are two kinds of constitutional lawyers: those who take the text of the Constitution seriously, and those who don't. Much of what is wrong with the American polity today is traceable, directly or indirectly, to the latter, who greatly outnumber the former. Those who wish to bolster the ranks of the good guys must begin by reading . . . the Constitution. Carefully. And repeatedly. This is not at all an unpleasant undertaking, because there are few texts that better reward careful study.

The other two great American contributions to political thought are the Declaration of Independence and *The Federalist Papers.* There are 85 of the latter but, as Clinton Rossiter observed,

> Those readers who do not have the energy and fixed purpose to make their way through the whole of *The Federalist* may wish to know that, by common consent of learned opinion, the following numbers are the cream of the eighty-five papers: 1, 2, 6, 9, 10, 14, 15, 16, 23, 37, 39, 47, 48, 49, 51, 62, 63, 70, 78, 84, 85 (ten by Hamilton, ten by Madison, one by Jay).

Of these, the three most indispensable for the aspiring lawyer are No. 10 (Madison's argument that the problem of "faction"—another term for interest-group politics—is best addressed by an extended republic); No. 48 (Madison's discussion of the need for separation of powers in the federal government); and No. 78 (the first of six numbers by Hamilton on the judiciary, with an often-quoted exposition of the doctrine of judicial review).

No one has made a greater contribution to conservative legal thought over the last generation than Robert Bork, and probably no one was more important in shaping Bork's thinking than his Yale Law School colleague, the late Alexander Bickel. In 1979, Yale named Judge Bork the first Alexander M. Bickel Professor of Public Law. On this occasion, Judge Bork eloquently and concisely explained his debt to Bickel in an address entitled "The Legacy of Alexander M. Bickel." Of course, Judge Bork set out his views on constitutional law many years later and at greater length in his book, *The Tempting of America.*

For those who want to explore the work of Bickel, his best book was his last, *The Morality of Consent.* Of particular importance there is Bickel's discussion of Edmund Burke. After this exposure, the student may be interested in a discussion of the difference between constitutional rules (and constitution-writing) and statutory rules (and legislation). "The Normative Purpose of Economic 'Science': Rediscovery of an Eighteenth Century Method," by Geoffrey Brennan and James Buchanan, argues that an effective constitution should assume that all human activity, in the market and in politics as well, is self-interested. (There is an obvious relation between this decidedly unromantic view of constitutional law and Thomas Sowell's distinction between constrained and unconstrained visions of human nature.)

If the student wants to read about the historical process that deformed many areas of constitutional law, we suggest four short articles. Three by Lino Graglia—"'Constitutional Theory': The Attempted Justification for the Supreme Court's Liberal Political Program"; "How the Constitution Disappeared"; and "From Federal Union to National Monolith: Mileposts in the Demise of American Federalism"—develop a number of historical themes, including the distortion of the criminal law by the Warren Court and its adverse consequences for our society. Richard Epstein's article, "The Mistakes of 1937," describes the damage done to the Constitution's protection of economic liberties by the Court's approval of New Deal regulatory statutes. As the titles suggest, Graglia and Epstein have vigorous writing styles that they use very effectively to proclaim their "emperor has no clothes" judgment on much of today's constitutional law.

IT WILL REQUIRE SIGNIFICANT INTELLECTUAL AMMUNITION, AND A HEALTHY DOSE OF COURAGE, TO DIVERT THE COLLECTIVIST IMPULSES IN AMERICAN POLITICS AND LAW.

VII. Comic Relief Pre-law reading lists often contain humorous pieces. Our suggestion is P.J. O'Rourke's *Parliament of Whores,* which spent several weeks at the top of the non-fiction best seller list in 1991. "The U.S. government," O'Rourke writes, "is a sort of permanent frat pledge to every special interest in the nation—willing to undertake any task no matter how absurd or useless." O'Rourke's language often is not something you'd especially want Aunt Minnie to read, but he is howlingly funny in his attempt to "explain the entire U.S. government." The book communicates a real understanding of public choice thinking as applied to a number of topics—and with a healthy dose of irreverent humor thrown in for good measure.

Reading conservative analyses of law and legal systems should enable pre-law and law students to confront Leviathan more effectively in the post-socialist world. Their efforts will be needed: The Clinton Administration faced over 100 judicial vacancies when it took office a year ago, more than three times the number awaiting Ronald Reagan in 1981. Thus, the power to shape the ideology of the federal courts for decades is up for grabs. It will require significant intellectual ammunition, and a healthy dose of courage, to divert the collectivist impulses in American politics and law. So, future lawyers, keep the midnight oil burning.

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Pre-Law Reading List

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Power Failure

Let's Pull the Plug on Federal Energy Programs

Michael McKenna

As the Clinton administration tries to sell the American people on the merits of government-driven industrial policies, it would be useful to examine one such effort—the U.S. Department of Energy. The department's current objective, as outlined by the Clinton administration, is to provide the "institutional leadership necessary to achieve efficiency in energy use." Don't be deceived: That's bureaucratic shorthand for a national industrial program. Assembled long before President Clinton took over, the DOE and its predecessors have been on a 30-year quest to manage the energy market by subsidizing the development of various technologies.

By any measure, however—be it in dollars, quads, or kilowatts—the DOE's efforts have failed. The department's entire mission rests on a flawed premise: The notion that government-sponsored scientific and technological ventures can and should be applied to steer market decisions toward the goals of federal regulators.

If the historical record is any guide, the recently announced clean-car initiative undertaken by the White House and the Big Three automakers will not break the pattern of failure in the statist pursuit of industrial policy. Since 1980, the United States has spent more than $50 billion of taxpayer money (in 1992 dollars) to develop energy production conservation technologies that have either failed technically or lacked market appeal.

How does the government perpetuate this problem? Program-by-program.

A Renewable Failure

From 1980 to 1992, American taxpayers spent almost $6 billion on the development of renewable technologies. Such technologies include solar and geothermal powers, biomass, wind-generated energy, municipal solid waste burning, photovoltaics, and, most substantially, hydropower. The renewables program, which has enjoyed a significant increase in funding in the last five years, is supposed to make renewable power sources competitive with more traditional forms of energy. It has failed.

In its 1980 *Annual Report to Congress*, the Energy Information Administration (EIA)—an independent arm of the DOE responsible for the collection and publication of energy-related data—indicated that it was optimistic about the chances for renewable technologies to penetrate the market. It wrote glowingly that: "The new energy technologies . . . have attracted much attention, perhaps because they seem to promise supplies of energy that are virtually unlimited and cheap, with no major environmental problems."

EIA was not stingy in its forecasts for renewables either. It projected that domestic energy production from renewables would rise from 3 quads to 3.6 quads from 1978 to 1990. A "quad" is short for quadrillion British Thermal Units, or BTUs, a standard measure of energy consumption on a national level.

The forecast was wildly wrong; renewable energy production actually declined. In 1980 renewables accounted for slightly more than 3 quads in an economy that consumed about 76 quads. In 1992 renewables accounted for 2.7 quads in an economy that consumed roughly 82 quads. The reason for the drop is that nearly all renewable technologies are unable to compete with other energy sources. They had been propped up by a tax break granted in 1978, which expired in the latter part of the Reagan administration. Thus, in the last 12 years the federal government has spent $6 billion on renewables, while production by renewable energy sources has dropped by more than 10 percent.

Ignition Point

As big as the disaster in renewable energy has been, the fusion program has been worse. The taxpayers have been funding this fiasco for more than 40 years; since 1980, the federal government has spent more than $7 billion on its fusion program. Yet the program has never produced a single watt of electricity. Then-Secretary of Energy James Watkins, who worked on the program in the 1950s, recommended in 1991 that it be pared back. Despite this recommendation, funding has increased from $287 million in FY91 to $337 million in FY92.

Fusion occurs within stars when the nuclei of lighter elements, like hydrogen, are fused together at high temperatures and great pressures. As anyone who has witnessed a hydrogen bomb explosion can testify, this reaction releases enormous amounts of energy. Unfortu-

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nately, the process has never been recreated in a controlled laboratory setting, much less in a powerplant. Yet bureaucrats involved in the program will always volunteer that "ignition"—the point at which one gets more energy from the process than one puts into it—is just a few years away. This has been the party line since the 1950s. The recent "breakthrough" announced by Princeton University is really a demonstration of how far away we are from nuclear fusion. The experiment consumed more than four times the amount of energy that it produced.

Fortunately, the grand viziers of the fusion program have provided taxpayers with a schedule of when we might expect to see results from our investment. In the DOE's *National Energy Strategy*, it is noted that a commercial fusion plant may be on line, with a little luck, as early as 2040. At that rate, we will need to spend about another $30 billion before we see any harnessed energy.

No Conservation Inroads

Conservation programs are another source of waste. The conservation research and development program of the Department of Energy has cost us almost $3 billion since 1980. The technologies being developed include exotic engines, advanced batteries for electric cars, and improved materials to be used in the transmission of energy. Unfortunately, there is no evidence that any of the programs have fulfilled their promise. In budget and other documents, DOE speaks about research that is being done on conservation; it rarely mentions achievements of the program.

SINCE 1980, THE UNITED STATES HAS SPENT MORE THAN $50 BILLION OF TAXPAYER MONEY TO DEVELOP ENERGY TECHNOLOGIES THAT HAVE EITHER FAILED TECHNICALLY OR LACKED MARKET APPEAL.

In fact, most of the energy savings gained over the past dozen years have been due to the normal replacement of buildings and increases in automobile fuel efficiency, and even DOE forecasters expect this turnover to continue to be the main source of conservation gains. As new buildings are built, for example, individuals and businesses are increasing the energy efficiency of their houses and offices. Likewise, more efficient and lighter automobiles have driven conservation gains on the road.

The important point, however, is that almost none of the gains can be attributed to DOE's busy conservation research and development program. Apart from the department's silence, there is a simple proof that the mundane choices of millions of consumers, and not exotic technologies, have led to improved conservation. The energy intensity of the economy, that is the amount of BTUs consumed per dollar of GDP, has dropped over the last 12 years from 20,110 to 16,730. But the most significant element of this drop has been the growing efficiency in the use of petroleum and natural gas.

Consider the numbers: In 1980, the energy intensity for energy produced by petroleum and natural gas was 14,460; for all other energy sources that number was 5,660. In 1992, those numbers were 10,930 and 5,800, respectively. Between 1980 and 1992, efficiency in the use of oil and natural gas increased dramatically, by about one-third, while at the same time efficiency in the use of other energy sources actually decreased. If DOE's conservation programs were responsible for greater energy efficiency, one would expect to see widespread gains in efficiency, not improvements focused around a narrow set of fuels.

In other words, the average American has been using oil and natural gas more wisely. But with other fuels—especially coal, in the form of electricity—conservation has not made inroads. In light of this, and the DOE's inability to point to any specific program which has led to reduced energy use, it seems plausible to assign any increased efficiency in energy use to prudence of consumers in their automobile, housing, and office buildings choices.

Markets Work Better

The Department of Energy's programs in the fossil fuel area have been devoted primarily to the development of cleaner use of coal and the development of enhanced methods of oil and natural gas recovery. Since 1980, more than $9 billion has been spent toward these goals.

The clean coal technology project, which was supposed to be the savior of coal-reliant utilities, has been an abject failure. Technologies being developed are designed to reduce the emissions of sulfur dioxide, nitrogen oxide, and ash into the air by coal burning. These technologies were designed to help utilities meet the ever-stricter demands of environmental legislation.

The clean coal program has been executed through a series of "rounds" in which utilities and other industry players bid for projects. The fifth round recently was completed, although the first commercial sale of the technology was just announced—10 years after the initiation of the project. The results produced to date have led even President Clinton's Secretary of Energy Hazel O'Leary to question the need for a sixth round.

HOW DID WE COME TO BELIEVE THAT THESE ENERGY PROGRAMS WERE ESSENTIAL, EVEN CRITICAL TO OUR NATIONAL INTEREST? HOW DID THEY BECOME SUCH DISASTERS?

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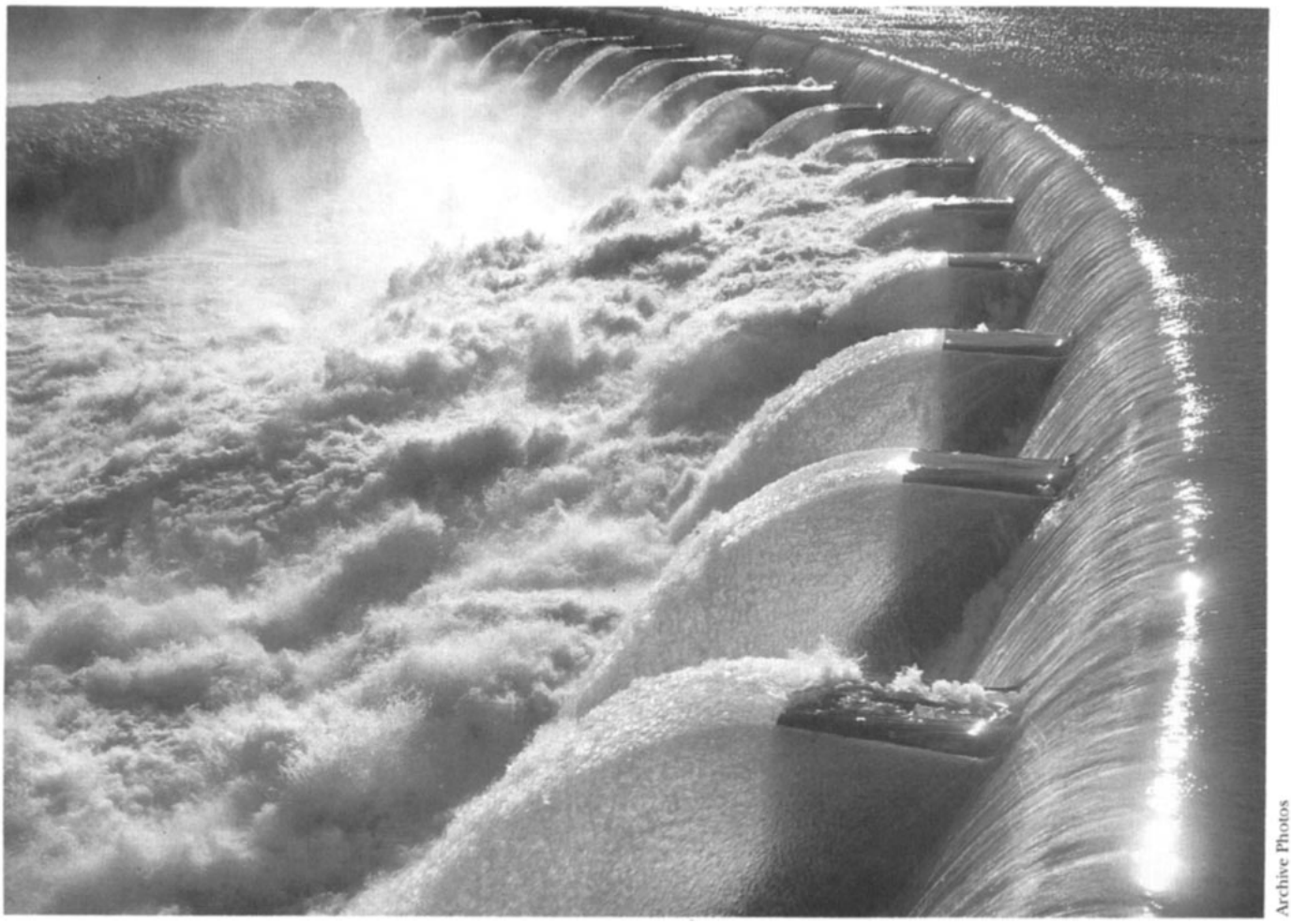

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From 1980 to 1992, American taxpayers spent almost $6 billion on the development of renewable technologies. Such technologies include solar and geothermal powers, biomass, wind-generated energy, municipal solid waste burning, photovoltaics, and, most substantially, hydropower.

Is there any hope of anything coming from the program? Absolutely. According to projections performed for the National Energy Strategy in 1991, clean coal technologies may account for as much 1 percent of the total amount of electricity generated in U.S. by 2005. But we will have to pour as much as another $5 billion into this technology over the next dozen years before we might see any results.

What about enhanced oil recovery, that is, the oil that is harder and more expensive to get out of the ground? Such oil faces the above-mentioned problems of competitiveness: With oil prices relatively low, it is simply not profitable to recover these reserves at this time. Enhanced oil recovery is another government subsidy, paid by taxpayers, to producers who hold production properties in high-cost regions like Texas. Most energy projections show that enhanced oil recovery is adding virtually nothing to domestic oil production.

Put simply, we've spent billions of dollars to circumvent the marketplace signals of price and demand, and the only thing that we may have to show for it is a temporary spike in the long downward trend in domestic oil production.

Nuclear power is truly the child of industrial policy—born in government labs, nursed by the government, sheltered by the government. Even the fuel supply is controlled by the government. Since 1980, we have spent more than $10 billion on the development of nuclear reactors. While much of this money has gone into the development of power sources for space missions, much more has gone into the development of new reactor designs that no one wants to buy.

No One's Buying

The schizophrenia of the Clinton administration is best summed up by Secretary O'Leary, who, in testimony before Congress in June, defended a nuclear budget upwards of $250 million for FY 1994. In October, when asked specifically about the likelihood of new nuclear powerplants in the United States, Secretary O'Leary said she doubted they would be built because, "You can't site them, and you can't pay for them."

Despite this, the Department of Energy is developing five reactors. Unfortunately, no utility is likely to order a reactor in the near future. In fact, no utility has placed an order for a nuclear plant since 1979, and every order placed since 1974 has been canceled. The indifference to nuclear power is based on a number of factors, including the lack of a waste solution, as well as the utility industry's experience with cost overruns in the 1970s.

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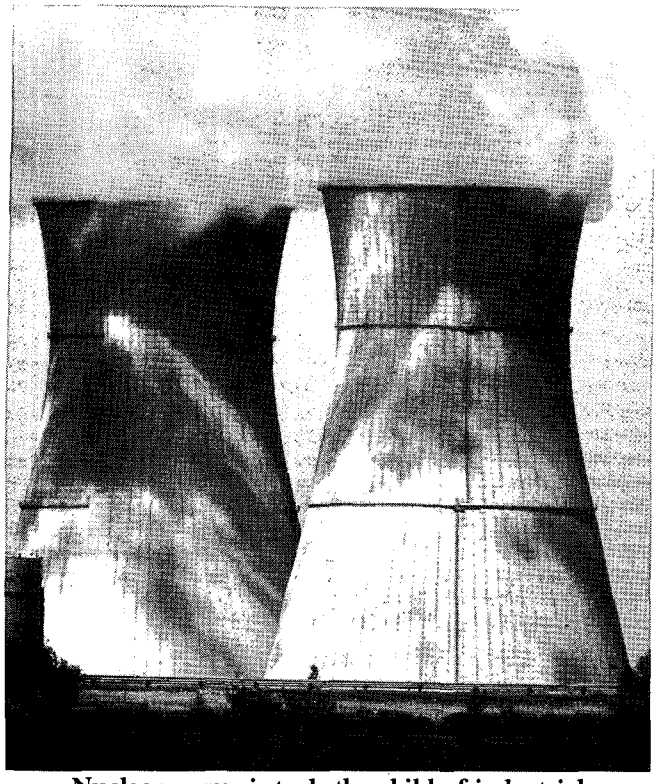

Archive Photos

Nuclear power is truly the child of industrial policy—born in government labs, nursed by the government, sheltered by the government.

Indeed, it remains unlikely that a utility will place an order for a reactor until the question of what to do with the nuclear waste is answered. This point has been made with varying intensity by DOE officials for the last 15 years, and yet, despite this, with the department tangled in a nasty fight with Nevada over the putative waste site at Yucca Mountain, we are not appreciably closer to a waste solution than we were in 1980. Yet, nuclear energy programs continue to gobble up millions of taxpayer dollars.

Flawed Predictions

How did all this happen? How did we come to believe that these energy programs were essential, even critical to our national interest? How did they become such disasters? Why haven't they been fixed? Most importantly for would-be industrial planners, why hasn't the failure of these programs led to a cataclysm in the energy market.?

To understand how the situation developed, one needs to consider conditions in the late 1970s. Energy prices were rising fairly dramatically; coal, natural gas, oil, and uranium prices all reached historic highs in those years. Unfortunately, the forecasters providing the baselines for policy decisions were convinced that these prices were the beginning of a trend, not the middle of a spike. The forecasters, in turn, convinced their bosses in the DOE, their overseers in the White House, and the willing accomplices in Congress, all of whom were temperamentally disposed to view the market as a lousy way to provide goods and services. Like all good statists, these planners concluded that the supposed defects in the energy market would soon make things like renewables and massive conservation efforts beneficial, even saintly.

Consider some of the predictions that provided the justification for the maintaining these programs compared to what actually happened.

•As noted previously, in 1980 renewables—including hydropower—provided 3 quads to the economy; by 1990 they were supposed to account for 3.6 quads, but they actually provided only 2.7 quads in 1992.

•The Department of Energy projected in 1980 that imported oil would cost $41.00 per barrel (in 1979 dollars) by 1990. On Christmas Eve, 1992, a barrel of West Texas Crude Intermediate sold for $18.50, which is about $9.59 in 1979 dollars. To give an idea of how far off the mark the predictors were, their "very low" oil price forecast was that oil would cost $20.00 per barrel (1979 dollars) by 1990.

•Oil was projected to account for 31 quads of energy production, and we were to import a little more than 10 quads worth, by 1990. The United States was going to use 18 quads worth of natural gas, and production of coal was going to rise to about 28 quads. The entire nation was supposed to produce or import about 86 quads, and the GDP was going to be a little more than $6 billion.

Awash in Oil

What happened? In 1992, coal accounted for only about 21.5 quads. Gas use has been much higher than projected; it accounted for about 23 quads. Oil use has not been as great as predicted, although the amount imported is greater than projected (we now consume 28 quads, 13 of which are imported). In 1992 the United States used about 82 quads of energy with a GDP of about $6 billion.

Our economy is much more energy efficient, despite the lower energy prices. We use less coal and oil and more natural gas than predicted. According to the forecast, we were supposed to consume about 17,600 BTUs per dollar of GDP. In fact, in 1992 we consumed about 16,700 BTUs per dollar of GDP.

In short, the projections used to justify the programs were completely inaccurate. The differences between the projections and the realities—and between the promise and delivery of DOE's programs—were caused, at least in part, by two phenomena that have dramatically changed the energy landscape in the years since 1980.

THE PRICE OF OIL HAS NEVER RISEN AS FAR OR AS FAST AS THE CENTRAL PLANNERS THOUGHT IT WOULD.

The first is the consistently low price of oil—its price never has risen as far or as fast as the central planners thought it would. Instead, oil prices dropped precipitously. In 1980, the price of a barrel of oil hovered around $16. In 1992, that price was lower than $10 per barrel in 1979 dollars.

Moreover, there is no reason to presume that the

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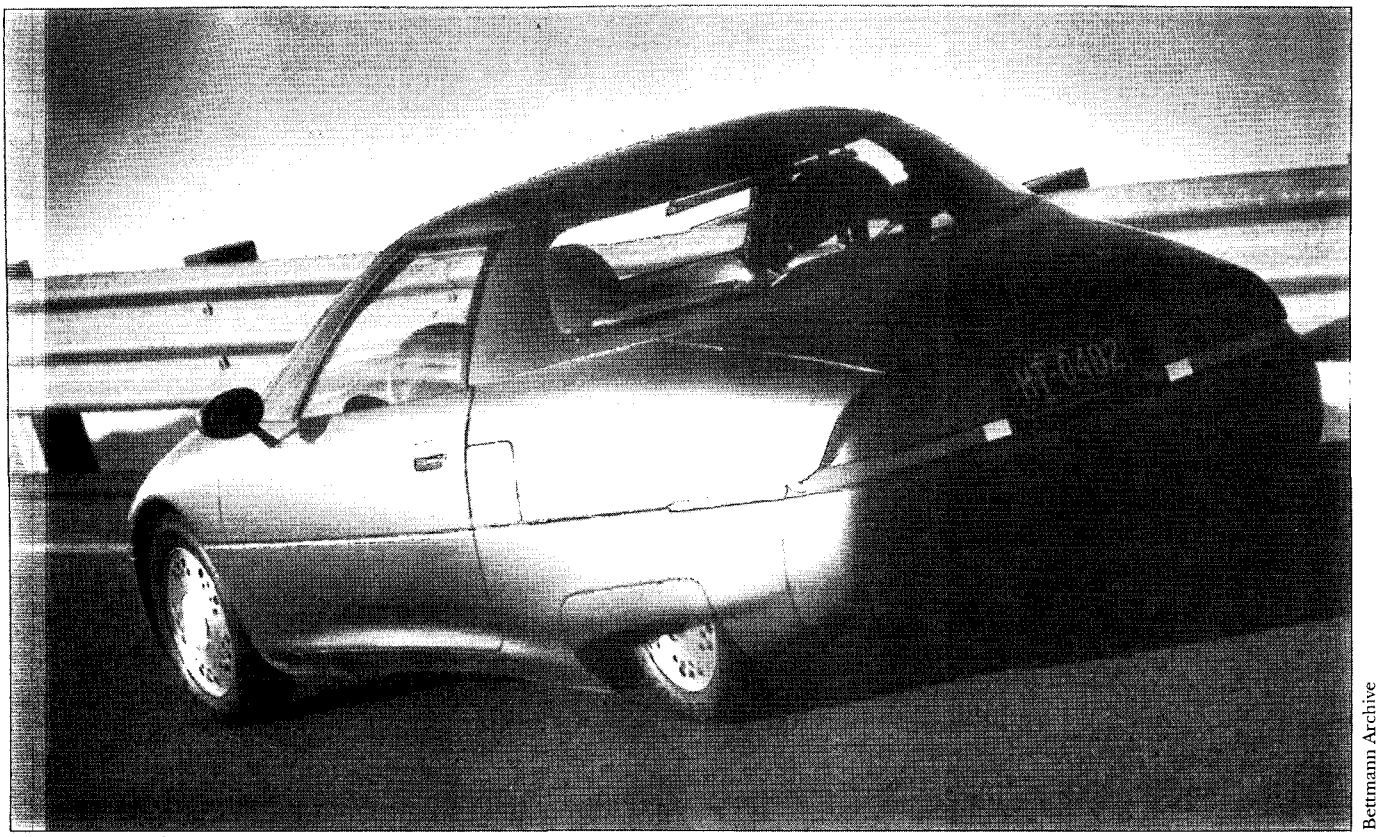

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The recently announced clean-car initiative undertaken by the Clinton administration and the Big Three automakers will not break DOE's pattern of failure.

downward pressure on prices will change. Even with a significant fraction of the world's production capacity off-line—including Russia, Iraq, and some areas in Kuwait—the world is awash in oil, and is likely to be so for the next several decades. Led by the New York Mercantile Exchange, the oil market took advantage of the crisis precipitated by Saddam Hussein to prove itself: Oil prices dropped to the pre-invasion level about a week after Hussein had taken—or threatened to take—nearly 50 percent of the Middle East's production capacity off-line.

Despite the lower-than-expected price, our consumption of oil was actually lower than the projection by about 3 quads. At the same time, imports were about 3 quads greater. These consumption figures are also a function of the oil market: Lower prices favor regions, like the Middle East, where oil can be recovered cheaply. These same low prices harm regions like Texas, where it costs more to get the oil out of the ground. Simply put, it requires more expensive extractive technology to get oil out of mature fields—like most of those in the United States—because the large, easy to reach pools have already been drained. Accordingly, consumers have turned toward the cheaper source of the commodity.

A keen observer also will note what appears to be a contradiction in the numbers. As oil prices were coming down, our use of oil was becoming more efficient. This appears contrary to economic theory, which suggests that one should consume more of a commodity as it decreases in price. But with Americans and oil, not so: While Americans continues to rely on petroleum products for most of their energy, they want to make sure that they consume it as efficiently as possible. This impulse acts as something of a hedge against short-term supply disruptions—think of individual Americans as 250 million strategic petroleum reserves.

DOE's Disconnection

The second change is the greater-than-predicted increase in the use of natural gas. This is due to the confluence of several events. First, the Fuel Use Act, which was to forbid the use of natural gas in utility and industrial powerplants after 1990, was—mercifully—repealed. Consequently, companies that developed and sold large jet-turbines started to market mutants of these engines, which burned either natural gas or petroleum, to utilities and industrial customers. These turbines are easy to build and operate, and they are clean and efficient.

At the same time, massive cost overruns and disallowances of utility costs by public utility commissions made the utilities understandably wary of large, fixed investments like traditional coal and nuclear powerplants. This development, coupled with the low price of natural gas, led utilities in the late 1980s and early 1990s to favor the use of natural gas-fired turbines to produce energy.

Additionally, increasingly stringent environmental laws made natural gas, which has low emissions compared to coal and oil, more attractive. This explains in part why renewable energy sources have fared so poorly, and why nuclear power will also suffer in the contest for new generation capacity. Natural gas has stolen much of their marketing virtue. The environmental advantage of natural gas is also part of the reason that coal has not pene-

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Even after Kuwait's oil production was interrupted by Saddam Hussein's invasion, world oil prices quickly stabilized.

trated the energy market as thoroughly as was expected.

One other factor has caused natural gas to become much more attractive as a primary fuel. With the disintegration of utility monopoly on the wholesale selling of electricity—accomplished by the Energy Policy Act of 1992—many firms are scrambling to get into the power-generation market. The easiest, simplest, fastest route is with a set of natural gas-fired turbines.

Overall, these two phenomena have resulted in an energy picture in which, compared to projections, there is: 1) greater use of imported oil and more attendant efficiency in its use; and 2) greater use of natural gas and less dependence on coal, nuclear, and renewable energy sources.

Always a Few Steps Behind

What conclusions can we draw from this picture and the related dramatic failures and waste of money that characterize the Department of Energy's civilian energy research and development effort?

First, none of the changes in the energy markets were foreseen by those who made the projections in 1980 or by their successors. That is forgivable. What is not is DOE's relentless pursuit of research and development policies that are blind to these changes. Apparently no one at DOE ever revisited the baseline projections and assessed their validity. This unwillingness to re-examine fundamental assumptions is a flaw shared by most of the federal bureaucracy, and is therefore likely to be found in other industrial policies.

Second, government efforts to drive down the cost of technologies are totally ineffective when the market can seek the lowest cost package that satisfies demand. This is what has killed renewable energy in this country—it has been unable to follow oil and natural gas to their low prices—and eventually the same problem will kill nuclear energy. These technologies cannot survive on technology advancement alone; they have to have some market demand to create sustainable markets.

Ruthless Efficiency

And the market in question—the energy market—is ruthless in its efficiency. Energy-price indices compiled by EIA show that the real cost of energy, after peaking in 1981, has steadily declined. Additionally, energy expenditures as a share of gross domestic purchases have dropped from 10.6 percent in 1970 to a little more than 8 percent in 1990. In other words, without the props of price controls and excessive regulation, energy markets behave a lot like other commodity markets—prices fall or remain constant over time.

This brings us to a third point about the Department of Energy's futile attempts at technology development. The department's policy priesthood has steadfastly refused to acknowledge that energy could or would behave like any other commodity market. The need for extravagant programs has always been justified on the basis of a soon-to-occur price escalation in oil, coal, or natural gas. None of these have ever materialized. Consequently, the programs designed to remedy these predicted increases have been flops. Remember this point when people start to talk loosely about the "need" for an industrial policy. The need is always based on some future crisis just down the road, but it is never actually visible.

Finally, the government is completely unable to shift directions swiftly enough to account for market decisions. The Department of Energy is no exception. It was unable to recognize the long-term downward trend in oil prices. It was unable to recognize the shift toward natural gas in utility power generation. It underestimated the speed and scope of the transformation of the utility industry. It failed to understand that citizens are good judges about what efficiency investments make sense. It has yet to comprehend that nuclear energy is virtually dead. All these faults have contributed to an ongoing, massive hemorrhage of the taxpayer's money.

It is difficult to see how other industrial policies will do much better. The simple fact is that government planners are, by the nature of their employment, always a few steps behind whatever industry it is that they are supposed to watch. They cannot be aware of subtle but important changes in business techniques, in the application of technology, and in attitudes within an industry. As we've seen in energy research and development, these failings can be ruinous to the economic health of taxpayers.

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LETTERS

Douglas C. Dobmeyer, Fred Karnas, Jr., Bob Kustra, John F. Steinbruck, Sister Margaret Leonard, Richard Freeman, Carol Fennelly, Gregory B. Christiansen, Thomas DiLorenzo, Walter Trattner, Sar Levitan, Lowell Gallaway, Gary Orfield, Robert Nakamura, James D. Hittle, William Freehoff, Stephen C. Danckert, Robert C. Whitten, Lawrence J. Korb, William E. Guglielmi, Brian Mitchell

MORE MONEY NEEDED

Dear Sir:

I was saddened to see a rather bitter, self-righteous article appear by Sister Connie Driscoll, president of the St. Martin de Porres House of Hope, and my contemporary in serving the homeless ("Chicago's House of Hope," Summer 1993). She seems to have lost the love she once had for people in need.

Sister Connie states the obvious rules of a shelter as if she invented them. I found this a slap in the face to the thousands of volunteers and staff of Chicago's hundreds of other homeless programs. She doesn't do anything that others don't also do for people staying at a shelter.

Her slaps at the people she and others serve, however, were especially distasteful. The impression from the article is that all homeless people are substance abusers. Nothing could be further from the truth. While it is true that all homeless people are desocialized, they have been cut off from family and friends for a variety of reasons.

In many ways we have been thankful for Sister Connie's work. However, we are not thankful for her bitterness toward the people she serves and other groups who serve or advocate for the homeless.

Chicago has 169,000 deteriorated units of housing. Many of these units could and should be for the current or near homeless. That takes government money. Lots of it. The Public Welfare Coalition and many others intend to see that the homeless have decent housing, not withstanding the bitterness of a Connie Driscoll.

There is not one single answer for homelessness. Sister Connie's views represent a tiny piece of the larger picture.

Douglas C. Dobmeyer
Executive Director
Public Welfare Coalition
Chicago, IL

A POVERTY PROBLEM

Dear Sir:

Sister Connie Driscoll articulates the philosophy that lack of personal responsibility is the primary cause of homelessness. Her very strict program reflects one end of the spectrum of arguments regarding how to respond to the problem. At the other end of the spectrum is the belief that homelessness is the result of systemic failures and inequities.

I would suggest that neither argument fully captures the reality of the situation. Homelessness is an extremely complex problem. As Sister Connie points out, there are many reasons why people become homeless. While there is no doubt that personal responsibility is key to resolving homelessness for a fraction of the homeless population, it is not the primary issue for most homeless people. Homelessness, for the most part, is a poverty problem, not the lack of personal responsibility.

It has been my experience that the assumption that all homeless people have to do to resolve their problem is to recognize personal responsibility for the predicament is based on the naive belief that every American has equal access to the help he or she needs to address personal problems. Sadly, this is not true at all. Over the last decade, I have spent many hours with homeless people desperate for help, who were faced with closed doors or waiting list after waiting list for assistance, once they courageously took control of their lives. What most Americans who argue the "boot strap" theory do not recognize is how uneven the playing field is if you do not have any money.

The answer to homelessness is rebuilding an economy which provides decent jobs and affordable housing for all Americans, while ensuring access to health care, including treatment for chemical dependency and mental health services, for those who cannot afford them.

Fred Karnas, Jr.
Executive Director
National Coalition for the Homeless
Washington, DC

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Driscoll Deserves Thanks

Dear Sir:

I was pleased to see *Policy Review* has called attention to the good work of Sister Connie Driscoll ("Chicago's House of Hope," Summer 1993). I have seen her in action, have learned a great deal from her, and have commended her approach to others.

No one person has all the answers to homelessness, drug addiction and teen pregnancy, but Sister Connie has found some of the answers and demonstrated how to attack these problems with success. She deserves our thanks, and I pray for more like her.

Bob Kustra
Lieutenant Governor
Springfield, IL

Homeless Need Firm Love

Dear Sir:

I agree with Sister Connie's approach to homelessness as outlined in the article "Chicago's House of Hope." Our Luther Place N Street Village in Washington, DC, in sight of the White House, follows almost an identical approach. Maybe not so much "tough love" in our approach, but certainly "firm love." We too insist no-nonsense, non-coddling "responsibility and accountability" from the residents of our Village community.

The Luther Place N Street Village is a continuum of ministries that welcomes, accepts and accompanies homeless women as they make their transition from overnight shelter in the Luther Place Parish Building to a better life. The continuum encompasses a city block of three-story townhouses, including residences for women recovering from substance abuse, elderly disabled women; and women recovering from surgery or illness, as well as the Bethany Women Center, which offers daytime programs, meals, counseling, showers, and intake services. Also, Luther Place Church Proper has been an emergency refuge shelter for 17 years. We also have residences for our Lutheran Volunteer Corps—mostly college graduates who give a year's commitment to serve in the above programs while living communally on subsistence.

On many points, we concur with Sister Driscoll. We, too, early on required residents to abide by rules that pertain to hours, cleanliness, and the 12-step programs as appropriate. We may have been first to apply discipline to matters of personal financial responsibility. And we agree that "smaller houses" (fewer beds) are more effective and ideal for community life.

Although we are in almost total agreement in thought and practice with Sister Connie — in caring, supporting, challenging and accompanying homeless persons to a better life— am not ready to release our government of all responsibility and participation in seeking permanent solutions to the still growing problem of homelessness. While we do not seek or receive government contracts or funds for programs and services at Luther Place N Street Village, I believe the tragedy of homelessness—be it 500,000 or 5,000,000 (the real number depends on how you define homelessness) — requires as meaningful a government response as has been given in the wake of Hurricane Hugo, the San Francisco earthquake, and the flood victims of the Midwest.

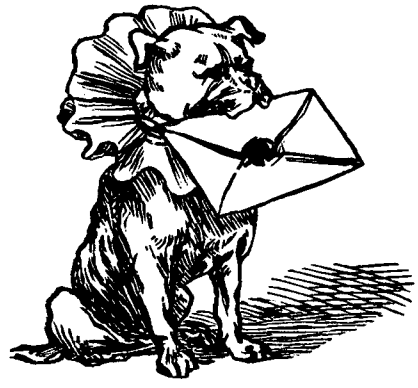
I AM NOT READY TO RELEASE OUR GOVERNMENT OF ALL RESPONSIBILITY AND PARTICIPATION IN SEEKING PERMANENT SOLUTIONS TO THE STILL GROWING PROBLEM OF HOMELESSNESS.

—JOHN F. STEINBRUCK

The fact is that we continue to lose affordable housing in our cities. The National Low Income Housing Coalition has data that demonstrates how the lack of such housing contributes to homelessness among families. Health care is simply inaccessible for the poor. Even malnutrition has reared its ugly head once again. While Luther Place N Street Village and the House of Hope are the quintessential embodiment of volunteers and charity, our conviction is that we and other private providers alone can't cope with the magnitude of this tragedy any more than the unfortunate victims of the Mississippi flood of '93. Government must be a partner!

Then, add to this the daily attacks from "gentrification"— he NIMBY (not in my backyard) syndrome—by a neighborhood association and its legal counsel. Plus, good laws are manipulated so as to restrict the availability of housing for low-income people by raising "road blocks" in the form of zoning, historic preservation, environmental and licensing issues; and commercial developers are subsidized with favorable tax laws. These and other discriminatory actions result in nothing less than pure classism in our opinion. When will the Heritage Foundation address these issues? (As far as this immigrant's child is concerned, this is not our Statue of Liberty heritage by any stretch.)

John F. Steinbruck
Pastor
Luther Place Memorial Church
and N Street Village
Washington, DC



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No Free Lunch

Dear Sir:

Sister Connie's article has much that is to be commended. Yes, homeless numbers were inflated. Yes, homeless people need more than a cot in a church basement (though that beats nothing). Smaller shelters that help people develop themselves are better than massive bed dormitories or hotels. But the article is sadly clothed in a hard–hearted (we don't coddle) rhetoric that obscures how to help the homeless.

Another model operates successfully at Project Hope in Boston, Massachusetts. Project Hope is a family shelter that provides extensive help, support, and opportunities for homeless families. It works with its homeless residents and formerly homeless people to create a supportive environment, with rules and regulations that nurture self–reliance and responsibility. When residents make that internal decision to become self–sufficient, the staff supplies the support that enables their dream to become a reality; without blame and without a "boot camp" mentality. You don't need the conservative (or liberal) buzz words to create a good program.

But you need resources. Most charities get some funds from the government. More government support for small, private shelters, not less, is needed. And while our welfare system should be reformed, cutting AFDC checks will give single–parent families less money for rent, creating additional homelessness. The majority of homeless families are not made up of substance abusers but of people with inadequate income. Homelessness grew in the U.S. in the 1980s not because welfare got more generous—it didn't—but because the income opportunities of lower–income Americans deteriorated relative to the availability of low income housing.

The right strategy is twofold: to address the societal problems and to assist individuals. Both require resources. What is missing from the article is the basic point that resolving homelessness is not going to be a "free lunch." Programs like Chicago's House of Hope or Boston's Project Hope are expensive, in dollars, effort, and time. Building individual skills and healing battered lives is necessary.

Sister Margaret Leonard
Executive Director
Project Hope
Richard Freeman
Professor of Economics
Harvard University
Cambridge, MA

Revisit National Priorities

Dear Sir:

It is unproductive for providers and advocates of services for the homeless to criticize each other's style of service delivery.

Our position at the Community for Creative Non–Violence has been that as long as people are being served, there is room for many approaches and solutions. One answer will not serve all people. There are too few of us out here committed to providing services to be cutting each other up, and competing with our various theories about the best way to get the job done.

Sister Connie seems to be running a residential social model treatment program rather than a shelter. We also operate such a program at The Community For Creative Non–Violence. Our rules are more strict than those at St. Martin's. That is what treatment programs require. We also have a comparable "success rate" because, like the Chicago program, we take only people who want recovery—people who are beating down our doors.

We also operate a shelter for those who are not addicted, or who are not yet ready for recovery. In our 1,400 bed shelter, 65 percent of our residents are employed either full–time or part–time on a regular basis, but cannot afford Washington's high–priced housing market.

There is no one set and easy formula for solving this—it is far too complex a problem. A variety of creative approaches that recognize the diversity of the population must be pursued.

In 1979 we spent $1 on housing for every $7 we spent on defense. By 1987 we were spending $1 on housing for every $44 we spent on defense. The neighborhood Reinvestment Corporation has estimated by the year 2003, if current housing trends continue, there will be 18.7 million homeless people in this country. Until we revisit the issue of national priorities and begin to create a new vision for America, homelessness will continue to increase.

Carol Fennelly
Community for Creative
Non–Violence
Washington, DC

Regulation Hinders

Dear Sir:

Sister Connie Driscoll is a remarkable person. She is right in arguing that compassion must include a demand that the less fortunate acquire the living habits necessary for self–sufficiency.

Sister Driscoll is aware that housing supply is "a factor" in homelessness, but she chooses not to emphasize it. It is worth mentioning, however, that at the turn of the century, there were thousands and thousands of people who fit the description of the sort of clients with whom Chicago's House of Hope works today. Many of them were young single males who had emigrated from Europe or Asia. As George Gilder has argued so well, young men with-

"In contrast to the intellectual climate that prevailed at the turn of the century, many advocacy groups and judges right now argue that public begging and sleeping in parks is a 'right.'"

—Gregory B. Christiansen

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out strong family ties are particularly likely to develop irresponsible attitudes.

Despite the presence of such attitudes, especially among a subclass of European immigrants, homelessness was surprisingly limited because the supply of housing was much more flexible than it is today. The housing stock was much less affected by zoning regulations, environmental impact statements, building codes, rent control, and the use of the eminent domain power to order that "slums" (i.e., low–income housing being torn down in the name of "urban renewal.") Chicago is an excellent case in point.

It should also be noted that sidewalks, parks, and other "common" areas were more strictly policed. Vagrants and panhandlers were more likely to be picked up or asked to leave the area. They would be encouraged to work in semi–skilled occupations which today are subject to all kinds of licensing restrictions. In contrast to the intellectual climate that prevailed at the turn of the century, many advocacy groups and judges right now argue that public begging and sleeping in parks is a "right."

Gregory B. Christiansen
Professor
California State University,
Hayward, CA

Philanthropy Works

Dear Sir:

Anyone who has read Marvin Olasky's outstanding book, *The Tragedy of American Compassion*, or Charles Murray's classic, *In Pursuit Of Happiness and Good Government*, knows that Sister Connie Driscoll has rediscovered some old truths: First, that genuine "compassion" requires action by both parties; second, that government has redefined "compassion" to mean support for massive welfare spending and even more bloated bureaucracies; and third, government efforts to alleviate homelessness and other social ills have replaced private, voluntary efforts that are almost always more effective.

Sister Connie's story is heartening and should be widely broadcast. It is bound to be viciously denounced, however, because it strikes at the heart of the welfare state, both practically and philosophically. There has long been a well–organized propaganda campaign against private philanthropy by professional social workers' organizations and their academic apologists. Stories like Sister Connie's are absolute poison to them.

Another necessary confrontation is philosophical. For decades, welfare statists have gone to great extremes to denigrate the common sense idea of individual responsibility, and have designed our governmental social programs accordingly.

As one recent example of this philosophy, Mark Rosenman of the Union Institute Center for Social Responsibility wrote in *Chronicle of Philanthropy* that those who are well–off in the U.S. did not get that way from hard work, but because they lucked out in our "inequitable and malfunctioning" economic system. The less affluent should not be held responsible for their actions, says Rosenman, for they are merely the hapless "victims" of "the random luck of the draw."

Outlandish as this may seem, this perspective is part of the mainstream thinking among social work and philanthropic professionals. Mr. Rosenman's Union Institute routinely collaborates on various projects with Independent Sector and other large associations of philanthropic organizations and his articles in *Chronicle of Philanthropy* were largely preaching to the choir.

It is this kind of absurd thinking that must be discredited before Sister Connie's individualistic approach to homelessness and other social pathologies can be more widely employed.

Thomas DiLorenzo
Professor of Economics
Loyola College
Baltimore, MD

THERE HAS LONG BEEN A WELL–ORGANIZED PROPAGANDA CAMPAIGN AGAINST PRIVATE PHILANTHROPY BY PROFESSIONAL SOCIAL WORKERS' ORGANIZATIONS AND THEIR ACADEMIC APOLOGISTS. STORIES LIKE SISTER CONNIE'S ARE ABSOLUTE POISON TO THEM.
–THOMAS DILORENZO

Blaming the Victim

Dear Sir:

While there is a great deal I might say about Sister Connie's methods, I am even more disturbed by her inattention to the real causes of the problems she claims to be concerned about (homelessness and substance abuse) and her contention that self–discipline and personal responsibility will make the homeless into productive, secure citizens. Surely she does not think that most of her clients choose to become homeless/substance abusers and that once they learn to "manage" their welfare checks and go out and look for a job, all will be well.

What about the millions of people who are looking for work and

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cannot find it, or who are working (primarily at low-paying, benefit–less, dead–end jobs) and cannot make ends meet — and thus are forced onto the streets where they end up on drugs? Wouldn't her time, and the time of others like her —who confuse symptoms with causes and engage in the old practice of "blaming the victim"—be better spent trying to convince local, state, and especially federal officials to provide decent-paying public service jobs for the millions of citizens for whom there are no such jobs in the private sector? If so, the number of homeless citizens would decline significantly and few people would need to report to Sister Connie at 7:30 each evening.

Walter Trattner
Professor of History
University of Wisconsin–Milwaukee
Milwaukee, WI

A Government Role

Dear Sir:

Policy makers at all levels of government and social workers could learn a great deal about alleviating homelessness from Sister Connie Driscoll's experience. Her observations are instructive, and the success stories are heart–warming. However, as I read the article, some gnawing questions continued to arise.

Clearly lack of personal rectitude is the major contributor to homelessness, but it is an oversimplification to say that most other homeless advocates see provision of housing as the only solution. On the contrary, most homeless experts, whatever their political stripe, favor diverse services to rehabilitate homeless people.

If we grant that dysfunctional behavior is responsible for much of the homelessness, what is the responsibility of all society to help people once they become homeless?

In asserting that only one out of 100 young pregnant or parenting girls should qualify for homeless assistance, Sister Connie apparently assumes that the other 99 would have abided by acceptable rectitude rules. She fails to offer advice on what we should do once these young women have transgressed the rules by which they should have lived, or alternatives if a mother is unavailable to insist upon proper behavior?

It is commendable that the House of Hope insists upon raising its own resources and shuns government or Catholic Church assistance. But could additional funds have helped provide additional services for the homeless population?

Finally, Chicago's House of Hope offers an excellent demonstration of what dedicated and "tough" providers, who insist upon following the rules of rectitude, can accomplish. The question is, are there enough charismatic, but "tough" providers to help the multitudes of homeless? Sister Connie seems to ignore the precept that we are our brother's (or sister's) keepers and that government has a role to play in helping the homeless.

Sister Driscoll seems to ignore the precept that we are our brother's (or sister's) keepers and that government has a role to play in helping the homeless.

—Sar Levitan

Sar Levitan
Director
Center for Social Policy Studies
George Washington University
Washington, DC

Three Cheers for Driscoll

Dear Sir:

"Tough Love." Those are the key words in Sister Driscoll's description of why Chicago's House of Hope appears to work so well in putting lives back together. Those words also provide a devastating insight into why the standard welfare system has failed so tragically in dealing with a wide range of similar problems. "Welfare as we know it," Bill Clinton's phrase, is totally incapable of making the selective individual judgements that are at the heart of the "tough love" approach. Welfare is a one–size–fits–all system, encumbered with a mass of bureaucratic rules and standards that render it completely ineffective in conveying any sense of discipline to its clients. The result? A welfare population whose energies are directed at "working the system," a system that is resented by a large portion of the nation's population who earn their own way in life. The traditional welfare approach to anything, including homelessness, polarizes the country by reluctant and often angry taxpayer–philanthropists who see their earnings taken to support a class of surly mendicants who, in turn, are not encouraged to put their lives in order.

The virtue of the House of Hope strategy is its emphasis on the discipline that comes with the "tough love" philosophy. It forces people in trouble to think about the many tomorrows they must face as they go through life. Things as simple as requiring a conscious act of saving out of today's welfare bounty and expanding the skills that will translate into greater employability have the capacity to transform people's perspective on their future. Equally important, they tend to inculcate a sense of personal responsibility for one's own condition. These are things that can be accomplished within a private approach to dealing with social problems. However, let the stultifying hand of a government bureaucracy be introduced and homelessness will go the way of all other welfare–type problems—it will get worse. Three cheers for Sister Driscoll and her co–workers.

Lowell Gallaway
Professor of Economics
Ohio University
Athens, OH

Expand Public Debate

Dear Sir:

As a former Chicagoan and a member of a parish near Woodlawn,

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I know that Sister Connie Driscoll is providing an extremely important service for people who literally have nowhere else to turn. The country would be much better off if there were thousands of people like Sister Connie and they could find the resources to set up shelters like hers. There is, of course, a lot to be said for the "tough love" approach, as most parents know. Like others with a mission to serve, she sees and nurtures potential in people who have had no one else who still believes in them and forces them to earn that confidence.

Liberals who neglect the transforming power of great dedication and religiously based commitment are foolish. On the other hand, conservatives who see this as a substitute for social policy or a valid excuse for trashing admittedly less effective government programs are drawing the wrong conclusion from the story. We would have fewer homeless people if there were thousands of Sister Connie's working on the problem. The threat of war would end if we had great numbers of men such as St. Francis running our militaries, and the health care crisis for the poor would be much less severe if there were thousands of Mother Teresas creating orders dedicated to serving the poor with love. Until that day arrives, however, we face choices where there is a vast need and only a tiny part of it can be met by the existing charismatic leaders. We should support them and enable them to expand their efforts, though they will often be worried about the changes that come with routinization of charisma.

The bulk of the problem, however, will still require public choices. We must debate why we continue policies that impoverish the poor and push families onto the street, why we leave mentally ill people with no support on our street corners, and why many people pleading for drug rehab cannot get it while we make vast investments in a staggeringly high level of imprisonment for crimes that are mostly related to paying for drugs. Part of this debate should indeed focus on raising expectations for behavior of beneficiaries, but a debate confined to that would be tragically flawed.

Gary Orfield
Professor of Education and Social Policy
Harvard University
Cambridge, MA

LET THE STULTIFYING HAND OF A GOVERNMENT BUREAUCRACY BE INTRODUCED AND HOMELESSNESS WILL GO THE WAY OF ALL OTHER WELFARE-TYPE PROBLEMS—IT WILL GET WORSE.
—LOWELL GALLAWAY

ROOM FOR NEW APPROACHES

Dear Sir:

Sister Connie Driscoll's article on her experiences with Chicago's House of Hope is a good news story that should be understood in a larger context. The current system dealing with homelessness is a mixed one produced by incremental changes and compromises rather than by careful strategic choices. Advocates of the view that homelessness is a problem external to the homeless have succeeded in efforts to increase the supply of housing, housing shelter programs, and judicially enforceable rights to shelter. At the same time, advocates of another view—that the homeless have problems that make it difficult to retain housing—have succeeded in creating, coordinating, and targeting social service programs for residents in homeless shelters.

While some private nonprofit groups have experienced success by pushing the service-intensive approaches into disciplined environments capable of transforming people, such efforts are made more difficult by regulations which discourage the institution of more than minimum rules on residents against criminal behavior. Many of our state systems are far more likely to regulate the providers of transient housing than the residents.

Sister Connie Driscoll and her colleagues have an answer that works for their clients: People who know they need help are willing to pay a price in behavior. The difficulty posed by our mixed system is that the prospect of duplicating such efforts using public funds—even for limited populations—is diminished by regulations intended to insure individual rights of residents and to prevent the exercise of discretion by those who run shelters.

Sister Connie's approach depends on making distinctions between people based on their willingness to conform to rules and to participate in treatment. Those judged unwilling to obey and participate do not get to stay.

I think that there ought to be room created for approaches like the House of Hope to expand in the nonprofit sector. While it won't work for everyone, neither has anything else. Faced with a diverse problem, the smart strategy is to divide it into manageable segments and to work at it in parts.

Robert Nakamura
University at Albany
SUNY
Albany, NY

SISTER CONNIE DRISCOLL RESPONDS

I note with interest that our principal detractors are individuals whose own livelihoods depend upon the continuation of the welfare state, and would benefit materially from its expansion.

It saddens me that they evidently do not understand that House of Hope is a ministry, and based on love. I believe that our success speaks for itself.

CARLSON RIGHT ON TARGET

Dear Sir:

Mr. Allan Carlson's article, "Your Honey or Your Life—The Case For

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The Bachelor Army" in the Fall 1993 issue, was right on target. Having entered the Marine Corps as a second lieutenant in 1937, I have had ample opportunity to observe the effects of increased early marriages in the military.

Mr. Carlson was absolutely correct when he said that first-time enlistees should not be married. There is so much that a young serviceman has to learn about the profession of arms that he can't divide his attention between his professional training and his wife, and often a family. The wife and the young enlistee are new to the service and all too often too immature to handle the emotional and financial stresses of service life, including long separations. A zooming divorce rate is the inevitable result.

During a recent deployment of a Marine Battalion to the western Pacific, here's what happened to some of the first-time enlistees: 12 called could not deploy because of family problems; soon after reaching the faraway destination, nine more had to be returned to the U.S. because of family problems; and while on deployment, another 21 had to be returned because of family problems. This total of 42 is the number in a rifle platoon. Their departures not only disrupted combat efficiency, but the cost was multiplied by travel, counseling, and replacements.

The military exists for just one basic reason: to defend our nation, even at the cost of lives. The military is not a device for social experimentation. There was a time when very few enlisted men below sergeant were married. The barracks was the first-time enlistee's home, and after duty hours the barracks was where the lore of the Corps was transmitted from senior to young enlistees. It was, in many ways, the school of the soldier.

I differ with the author on one point: I am not in favor of an entirely bachelor army. Marriage has long been a part of the service life for senior NCO's and for officers after their first two years of commissioned service. Byron Farwell, in his Eminent Victorian Soldiers, quotes an old saying in those days: "subalterns must not marry; captains may marry; majors should marry; and lieutenant colonels must marry." It worked in the Victorian era. It is worth remembering today.

James D. Hittle
Brigadier General, USMC (Ret)
Washington, DC

A Look Back

Dear Sir:

I read with interest Allan Carlson's article on marriage and the soldier in the Fall issue.

In his "Officers' Manual" of 1917, the late Colonel James A. Moss, U.S. Army, had this to say on the subject of married enlisted men:

"There is no law to prevent the marriage of enlisted men, but when they marry without the consent of the company commander, they may forfeit extra privileges which are sometimes granted to married soldiers...

A soldier who marries without the permission of his Regimental Commander may also be denied reenlistment."

William Freehoff
Kingsport, TN

Carlson Appalls, Insults

Dear Sir:

As a former Army officer and a lifelong conservative, I was appalled by Allan Carlson's essay, "Your Honey or Your Life: The Case for the Bachelor Army." It is historically inaccurate, politically and militarily foolish, and gratuitously insulting.

Mr. Carlson is simply incorrect when he assert that "a bachelor military force was the American rule from 1776 to 1940." Martha Washington was by her husband's side at Valley Forge, the birthplace of the American Army, and camp followers were an important if unofficial component of the Continental Army. These women often subsisted on military rations, in part because of their important contributions in caring for the sick and wounded.

After the Revolution, the U.S. Army developed organizations to do its laundry and to care for its wounded, but the camp followers stayed on. Even the most cursory study of U.S. military history reveals a married cadre of officers and senior noncommissioned officers. If the junior ranks boasted few married men prior to 1982, that is because we had a different kind of Army back then: amateurs led by professionals.

President Reagan created an Army of professionals led by professionals, and I dare Mr. Carlson to find an officer on earth eager to return to "the good old days."

Militarily, Mr. Carlson's enthusiasm for a citizen force—composed of "young men eager for adventure and travel"—is a recipe for disaster. War is not a task for young men bent on glory: war, and the training that must precede it, demands professionalism and perseverance. There

THE MILITARY EXISTS FOR JUST ONE BASIC REASON: TO DEFEND OUR NATION, EVEN AT THE COST OF LIVES. THE MILITARY IS NOT A DEVICE FOR SOCIAL EXPERIMENTATION.

—JAMES D. HITTLE

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is very little adventure in winching a tank out of the mire, or in pumping thousands of gallons of jet fuel into giant rubber bladders: professional soldiers know that this is the stuff of modern war, however, and stick to their task until the mission is done. The training, experience, and spirit of the professional is what brought the Iraqi Army to its knees in a hundred hours. Jeffersonian ideology has no place on the field of battle.

From a political standpoint, I cannot understand why any conservative would advocate the creation of an elite, bachelor "expeditionary force." In the first place, the military is the last American institution to value the family as a fundamental component of society: in-kind family benefits are just another way of paying a family wage (have we abandoned that concept?). It is an axiom of military leadership that "you may enlist a soldier, but you re-enlist a family." Such policies pay off: the strength of the Army family and community life would put modern America to shame.

And why do we want an elite "expeditionary force" running around the globe? Did I miss something at the last Republican convention, or did conservatives suddenly decide to join the liberals in volunteering our soldiers as UN cops? A married, professional army, inextricably linked to the guard and Reserve through the "Roundout" and "Capstone" programs, is the best guarantee that our forces will not be committed lightly. After Vietnam, Army officers designed a force that could not be sent to war without congressional approval. As Desert Storm demonstrated, this was no small achievement.

Finally, speaking of Desert Storm, I highly resent Mr. Carlson's comments that a married serviceman has divided loyalties. Every soldier, married or single, has divided loyalties. Or does Mr. Carlson suggest that it is easier to leave a mother or a sweetheart than a wife and child? Every American soldier carries his heart in his rucksack when he marches off to war: the burden has never kept us from victory. I spent eight years in Ronald Reagan's Army. My youngest daughter, Stephanie, was born while I was serving in the Persian Gulf. I can assure you that no one understands the special pain of a married soldier better than the soldier himself. But I can also assure you that the married, professional soldier has the training and self-discipline to do his job, regardless of his "divided loyalties."

Married, professional soldiers stared down the Soviets and wiped out the Republican Guard. We did what had to be done, and our families bore the hardships of separation with love and dignity. If that is not enough for Mr. Carlson, if conservatives are suddenly to embrace the "bachelor army" of Pat Schroeder, then perhaps I was wrong to leave the service. At least there, people understood the importance of family, of discipline, and of love.

Stephen C. Danckert
S. Weymouth, MA

DID I MISS SOMETHING AT THE LAST REPUBLICAN CONVENTION, OR DID CONSERVATIVES SUDDENLY DECIDE TO JOIN THE LIBERALS IN VOLUNTEERING OUR SOLDIERS AS UN COPS?

—STEPHEN C. DANCKERT

CARLSON ARMY RESEMBLES NATIONAL HEALTH PLAN

Dear Sir:

In an odd way Allan Carlson's "Your Honey or Your Life" (*Policy Review*, Fall 1993) is reminiscent of the Clintons' national health plan. Both promise more or at least equal output for less input. Unhappily in this world, you get what you pay for and Mr. Carlson's bachelor army could not supply much defense today in this day of high technology weapons. While the Marines still, I suppose, claim that "the Marine and his rifle are the ultimate weapon," those rifles are all high-tech! Trying to man the armed forces entirely with bachelors who have the technical aptitudes and motivation would be an exercise in futility. Unless, of course, Mr. Carlson is suggesting a homosexual army, navy, and air force, which would raise all kinds of problems in society at large. Very few of our citizenry want to be reliant on homosexuals for defense.

What about the Swiss approach to national defense? Mr. Carlson seems to believe it is an idea whose time has come while the Swiss are raising numerous questions about its practicability in the high-tech age. The hard fact is that the technical skills required for operating the equipment and weaponry in a modern arsenal cannot be acquired during monthly drills. Most of the well-qualified reservists in the U.S. armed forces were initially trained while on long-term active duty in one of those services. Training duty allows them to maintain and update those skills. There must be a flow from active duty to reserves with the size of the reserve force not larger than half the size of the regular force. Almost complete reliance on reserves will not work—while large reserve/national guard forces may indeed be raised, they will be hollow without a relatively large and professional regular force. Carlson even suggests that his proposal be applied to the Navy as well as the Army. The idea that "Weekend Warriors" could suddenly be called up to man a carrier battle group and then quickly meet the enemy boggles the mind. Once such a force was placed entirely in the reserve inventory, 10 years would be required to make it combat ready.

Thomas Jefferson, during his presidency decided that all the navy the country required was a fleet of coastal gunboats manned by militia taken largely from merchant crews and fishermen (*Natural History*, Vol. 7, no. 2, Summer 1993). During the fracas with the British over their seamen impressment practices in 1807, the redoubtable Stephen Decatur attempted to defend Norfolk against

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a threatened British raid from the sea. The "moth-balled" gunboats were soon made ready; all they lacked was men. A month after the crisis began, Decatur's little squadron had a total strength of 11 out of the nearly 500 required! So much for amateur navies!

If our national leaders conclude that we cannot afford adequate defenses or that we should not risk having them, then let them say so honestly and openly and not hoodwink the populace into a false sense of security.

Perhaps your journal should publish Rudyard Kipling's "Tommy Atkins" to point up how unloved soldiers, sailors, airmen, and marines are after peace has arrived.

Robert C. Whitten
Cupertino, CA

Army is Defending a Way of Life

Dear Sir:

In December 1962, at my graduation from Naval Officer Candidate School, the commencement speaker, an admiral (whose name I have consciously suppressed) advised the newly commissioned ensigns not to "mess up" our naval careers by getting married. Even 30 years ago, most of us "citizen sailors" considered such a position ridiculous, anachronistic, and anti-American. I don't know where this admiral is today, but his ideas are apparently alive and well at the Rockford Insti-

tute in the person of its president, Allan Carlson (and in the Pentagon in the person of General Carl Mundy of the Marine Corps).

Reading Mr. Carlson's article, it's hard to believe the American armed forces recently won the Cold War and obliterated the forces of Saddam Hussein in 44 days with less than 300 killed. According to Mr. Carlson, the U.S. military resembles HHS in camouflage, with its fighting ability weakened by the divided loyalties of its overwhelmingly married force and its budgets weighed down by the crushing burden of dependents' benefits. It's hard to reconcile Mr. Carlson's view with that of General Colin Powell, who upon the occasion of his retirement as chairman of JCS in October 1993, described the current force as the best in the history of the nation.

Even if one puts aside the "if it ain't broke, don't fix it" critique of Mr. Carlson's thesis, the rationale for his "bachelor force" is still weak. The American military does not exist to defend a piece of geography, but a way of life. It's not in the American tradition to preserve that way of life by preventing those who defend it from enjoying the right to have a family. Moreover, Mr. Carlson gets it backwards when he discusses our Founding Fathers' fears of standing armies. As he notes, they felt that a standing army stands alien to republican governance, to family life, and to social order. The way to guard against these three dangers is to ensure that the military is just like us, that is, composed of married as well as single people, women as well as men, divorced as well as married, gays as well as straights, and individuals of all races, creeds, and colors. Mr. Carlson's "From Here to Eternity Military" (the bachelor force that existed prior to 1940) does not look much like America (then or now).

Mr. Carlson's cost arguments are also misleading. True, the American military budget and force are declining, but so is the threat. If anything, the threat has declined much faster than the budget. Today there is less budgetary pressure than during the Cold War, when a budget only 10 percent larger than the current Clinton budget kept 500,000 people deployed around the world and 1.5 million men and women in the United States on hair trigger alert to deal with a short warning, two front, massive attack by the forces of the Soviet empire.

Like admiral "what's his name" 30 years ago, Mr. Carlson is well intentioned. But like the admiral, he's out of touch with today's America, and has offered a prescription that would destroy the American military and American values.

Lawrence J. Korb
Director
Center for Public Policy Education
The Brookings Institution
Washington, DC

THE AMERICAN MILITARY DOES NOT EXIST TO DEFEND A PIECE OF GEOGRAPHY, BUT A WAY OF LIFE. IT'S NOT IN THE AMERICAN TRADITION TO PRESERVE THAT WAY OF LIFE BY PREVENTING THOSE WHO DEFEND IT FROM ENJOYING THE RIGHT TO HAVE A FAMILY.

—LAWRENCE J. KORB

Carlson Ignores Evidence

Dear Sir:

Mr. Allan Carlson has it all wrong. His passionate appeal ("Your Honey or Your Life," Fall 1993) for the creation of an all bachelor standing military force ignores historical evidence and existing political/military realities. His proposals, crafted as a "reasoned" argument for an adequate defense structure, play into the hands of the "armchair pacifists and warriors" he decries in his final paragraph.

Mr. Carlson devotes considerable energy attacking "problems" he perceives exist in the present standing force. It is interesting that apart from a general statement—unsubstantiated except by armchair war-

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rior academics—that married personnel have divided loyalties that may affect performance, none of his "problems" are readiness related. He is more concerned with social than war-fighting issues. Such concerns need to be addressed in any discussion of military readiness, however, they do not deserve the primacy that Mr. Carlson gives them. Direct military issues such as future force missions are more critical to a reasoned defense debate than whether or not current military wives are more feminist than their predecessors.

Mr. Carlson's article adds little to the future force debate. It is a "puff piece" relying on romantic notions (Gurkhas, the Highlanders, the Swiss militia) while ignoring the mixed historical record of both the U.S. pre-1940 bachelor force and militia. Such a study is essential if his proposals are to be given any credibility.

Finally, I would be remiss if I did not take Mr. Carlson to task for his slander of the thousands of dedicated, professional, and (God forbid!) married service members who accomplish their duties in exemplary fashion on a daily basis. His determination that they are distortions of American life and tradition is unfair and untrue and is something I would expect to see espoused in *Nation*, not *Policy Review*.

William E. Guglielmi
Major, U.S. Army
Fayetteville, NC

New Army Sounds Sensible

Dear Sir:

Allan Carlson has given us an insightful historical overview of U.S. military personnel policy as it regards dependents and women, as well as an occasion to reflect on the proper place of the military in a free society. The trouble is that he has misidentified the mission of the military, which he says is to defend the United States against invasion. Sorry, but nearly nobody in Washington wants to use the military for that these days.

No, our military's mission is to re-install failed Haitian politicians, track down successful Somali warlords, feed the victims of social and political disintegration in Africa and elsewhere, protect the Kurds from the Iraqis, return Arab despots to their thrones, bar drug lords from power in Panama, defend the Beundes Bank from Russians, keep the peace throughout the Pacific, and hold the wall when Kim Il-Sung dies in Korea.

Seriously though, the proposal to bar first-term enlistees from claiming dependents is exceedingly sensible. The lower military ranks are essentially entry-level jobs and thus should not be expected to provide support for wives and children. The military doesn't owe anybody a job or a family. If such a policy turns a few recruits away, I suggest we concentrate the troops we have left on our borders, where they can do the most good.

Brian Mitchell
Alexandria, VA

Allan Carlson Responds:

I agree completely with General Hittle (as I *did* note in my article) that senior officers and NCO's should enjoy an "exemption" from the bachelor rule, as they did in the pre-1941 military force.

Mr. Korb wants a military force that looks like America, "gays as well as straights," while Mr. Whitten suggests that a skilled, primarily bachelor military force must, as a result, be homosexual. Both arguments rely, in hazy fashion, on the central, but often unspoken premise of the sexual modernists: that abstinence from, or control over, one's sexual activity for a portion of one's life (even a few weeks) is impossible. Representative Pat Schroeder had a similar response to General Mundy's call for a bachelor Marine Corps (sorry, Mr. Danckert, but she's actually on *your* side of this argument): "If they are not allowed to be homosexuals and they're not allowed to be married, what are they supposed to do—take cold showers?" [*Time*, Aug. 23, 1993, p. 35]. There isn't the space here to cite the vast evidence that sexual restraint is possible. I'll simply say that if cold showers are the only method that works, then by all means: to the showers!

THE LOWER MILITARY RANKS ARE ESSENTIALLY ENTRY-LEVEL JOBS AND THUS SHOULD NOT BE EXPECTED TO PROVIDE SUPPORT FOR WIVES AND CHILDREN. THE MILITARY DOESN'T OWE ANYBODY A JOB OR A FAMILY.

—BRIAN MITCHELL

Mr. Whitten also argues that modern weaponry relies on highly technical skills that could not exist in a part-time militia force. In fact, technological advance cuts two ways. Computerization and advances in sighting, to choose but two examples, are more likely to make weapons use easier in the future.

The prototypes here include the TOW antitank system and the Redeye anti-aircraft missile. Only a *week* is needed for essential training on either and their operation is actually quite simple. And let us remember: it was the Redeye in the hands of very irregular Muslim "militiamen" that brought the Red army to its knees in Afghanistan. Future weapons will also rely more on modular construction and repair, further diminishing the need for *deep* technological expertise.

Mr. Danckert, in arguing that "Jeffersonian ideology has no place on the field of battle," reveals just how hostile many Americans now are toward the basic principles of the Founders of this nation. Mr. Mitchell, I fear, is all too correct: Our professionalized military force appears linked, to an uncomfortable degree, to foreign adventuring and empire building, the very perils that patriots from Washington to Eisenhower warned us about. ☎

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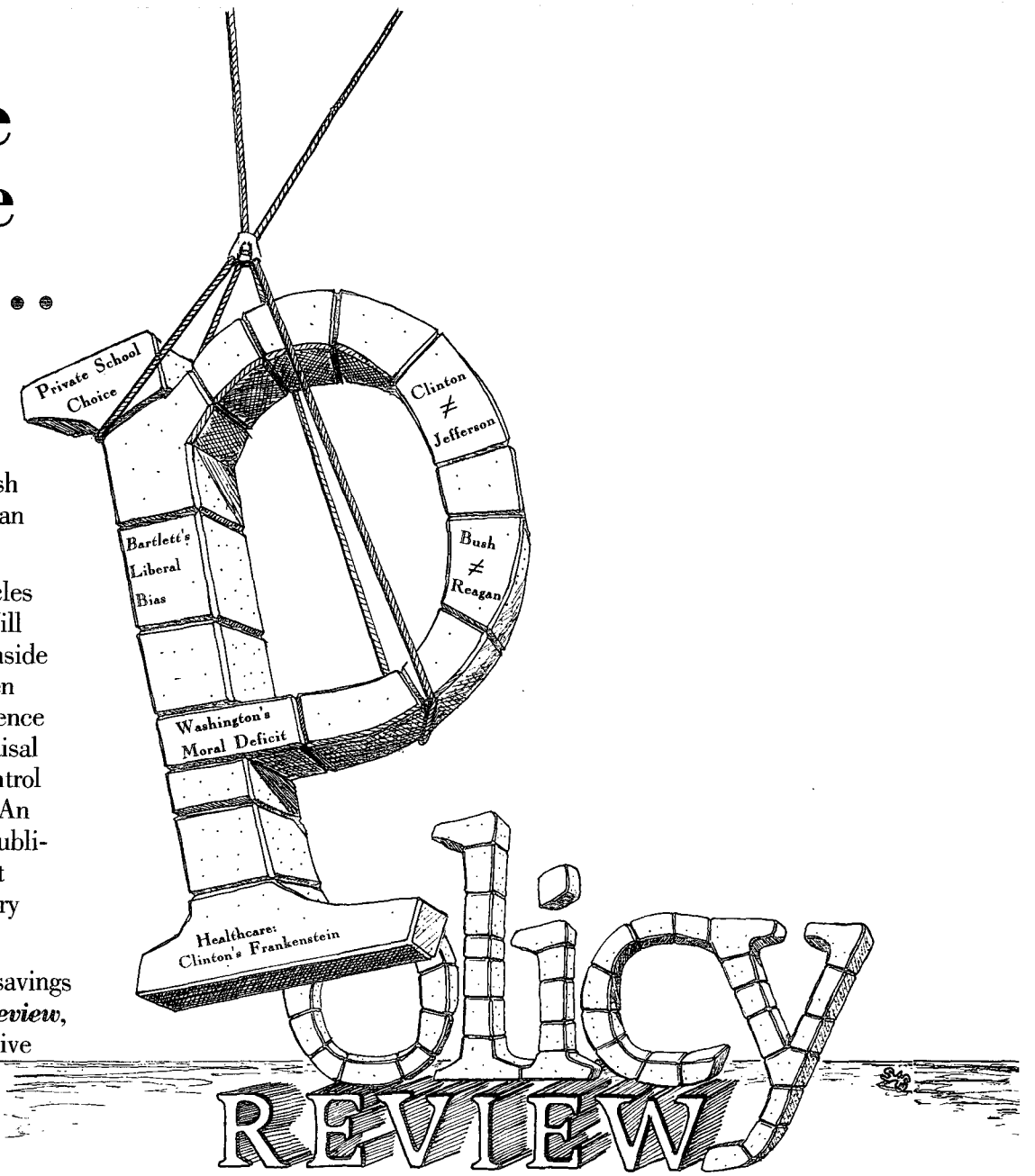

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policy REVIEW

"The bosom of America is open to receive not only the opulent and respectable stranger," George Washington wrote in reply to a group of Irish immigrants, "but the oppressed and persecuted of all Nations and Religions; whom we shall come to welcome to a participation of all our rights and privileges if, by decency and propriety of conduct, they appear to merit the enjoyment."

Matthew Spalding
From Pluribus to Unum:
Immigration and the Founding Fathers

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